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Friday, 8 August 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

12 | Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE STUART McDougall,
15 Member from the Dominion of Canada; HONORABLE JUSTICE
16 I. M. ZARAYANOV, Member from the USSR; and HONORABLE
17 JUSTICE E. H. NORTHCROFT, Member from the Dominion of
18 New Zealand, not sitting from 0930 to 1600.

19 For the Prosecution Section, same as before.

20 For the Defense Section, same as before.

22 (English to Japanese and Japanese
23 to English interpretation was made by the
24 Language Section, IMTFE.)
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1 MARSHALL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If the Tribunal please, more
5 pressure against Japan was brought to bear on the
6 same day, March 4, 1941, when Executive Order 8703
7 was signed, prescribing additional regulations govern-
8 ing the exportation of certain articles and materials
9 as set forth in defense document 1400-H-5, which is
10 now offered in evidence.

11 THE PRESIDENT: Admitted tentatively.

12 CLERK OF THE COURT: Defense document 1400-H-5
13 will receive exhibit No. 2815.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 2815 and received in evidence.)

17 MR. LOGAN: Exhibit 2815, "Executive Order
18 No. 8703, Signed by President Roosevelt, March 4,
19 1941." The articles set forth in this executive
20 order, on which embargoes were placed, are as follows:
21 "Jute, fiber, burlaps, bags, lead, ore and matte, pigs
22 and bars, sheets and pipes, solder, borax, boric acid,
23 borates, phosphates, phosphoric acid, phosphorus,
24 phosphate rock, and superphosphate."

25 On March 27, 1941, a proclamation was issued

1 by President Roosevelt stating that in the interests
2 of national defense certain articles and materials
3 were prohibited from being exported from the United
4 States except when authorized by license as pro-
5 vided by proclamation of July 2, 1940. This pro-
6 clamation is set forth in defense document 1400-I-5
7 which is now offered in evidence.

8 THE PRESIDENT: Admitted tentatively.

9 CLERK OF THE COURT: Defense document 1400-I-5
10 will receive exhibit No. 2816.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 2816 and received in evidence.)

14 MR. LOGAN: Exhibit 2816, "Proclamation No.
15 2468, Signed by President Roosevelt, March 27, 1941."
16 The articles added to the embargo list include:
17 "Animal fats and other types of oil, vegetable oils,
18 vegetable oilseeds, fatty acids, bristles, nylon,
19 kapok, purified wood pulp, cork, carbon electrodes,
20 petrolatum, alkyd resins, explosives, detonators,
21 napthalene, phenol, aniline," and a list of thirty-
22 two chemicals to which I invite the Tribunal's
23 attention.

24 On April 14, 1941, Proclamation No. 2475
25 was issued prohibiting exportation, except by license,

1 of machinery from the United States. This proclamation
2 is set forth in defense document 1400-J-5 which we now
3 offer in evidence.

4 THE PRESIDENT: Admitted tentatively.

5 CLERK OF THE COURT: Defense document
6 1400-J-5 will receive exhibit No. 2817.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 2817 and received in evidence.)

10 MR. LOGAN: We read from exhibit 2817, a
11 proclamation signed by President Roosevelt, April 14,
12 1941. According to this exhibit, machinery was added
13 to the embargo list.

14 Another proclamation, No. 2476, was issued
15 on the same day, April 14, 1941, prohibiting expor-
16 tation of more materials except pursuant to a license
17 as set forth in defense document 1400-K-5 which we
18 now offer in evidence.

19 THE PRESIDENT: Admitted tentatively.

20 CLERK OF THE COURT: Defense document
21 1400-K-5 will receive exhibit No. 2818.

22 (Whereupon, the document above
23 referred to was marked defense exhibit
24 No. 2818 and received in evidence.)

25 MR. LOGAN: I now read from exhibit 2818, a

1 proclamation signed by President Roosevelt, April 14,
2 1941. It shows that these further articles were
3 added to the embargo list: "Vegetable fibers and
4 manufactures, theobromine, caffein, sodium cyanide,
5 calcium cyanide, and casein."

6 We now offer in evidence defense document
7 1400-G-6, which is a memorandum of a conversation
8 held between the Japanese Ambassador and the United
9 States Secretary of State. We shall only read the
10 first two lines of the first paragraph and the last
11 two sentences of the second paragraph.

12 THE PRESIDENT: Admitted.

13 CLERK OF THE COURT: Defense document
14 1400-G-6 will receive exhibit No. 2819.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 2819 and received in evidence.)

18 MR. LOGAN: I shall now read portions of
19 exhibit 2819, being a "Memorandum of a Conversation,
20 Washington, May 28, 1941.

21 "The Japanese Ambassador called at the
22 Secretary's apartment at 8:30 by appointment made at
23 the Ambassador's request.

24 "He," meaning Mr. MATSUOKA, "added that the
25 Japanese people were heartily sick of the idea of an

1 economic bloc and desired to return to the spirit
2 of the MEIJI restoration in which their horizon had
3 been broadened to intercourse and trade with the
4 whole world. He said that the American embargoes
5 had made the Japanese feel that there was no alter-
6 native at present to seeking an economic bloc, but
7 they were feeling the pinch of a restricted economy
8 and would welcome a resumption of normal trade."

9 On May 28, 1941, a press release was issued
10 by the Department of State stating the control of
11 the export of strategic and critical articles and
12 materials was extended by proclamation to the
13 Philippine Islands as of May 28, 1941. This release
14 is set forth in defense document 1400-L-5, which is
15 now offered in evidence.

16 THE PRESIDENT: Brigadier Quilliam.

17 BRIGADIER QUILLIAM: May it please the Tri-
18 bunal, this is really, although a press release, a
19 proclamation that I suggest should be dealt with as
20 the other proclamations have been; admitted tentatively-
21 ly.

22 THE PRESIDENT: Admitted tentatively.

23 CLERK OF THE COURT: Defense document
24 1400-L-5 will receive exhibit No. 2820.

25 (Whereupon, the document above

1 referred to was marked defense exhibit
2 No. 2820 and received in evidence.)

3 MR. LOGAN: "Press Release Issued by the
4 Department of State on May 28, 1941."

5 As shown in exhibit 2820, "Control of the
6 export of strategic and critical articles and
7 materials needed in the national defense program
8 was extended May 28, by proclamation of President
9 Roosevelt, to the Philippine Islands, as the Presi-
10 dent signed a joint resolution of Congress authoriz-
11 ing such extension."

12 We now call as a witness, ISHIZAWA Yutaka.

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1 the prosecution objects to paragraph 1, the numbered
2 paragraph 1 of the affidavit, beginning on page 3
3 and continuing to the middle of page 5 ; and to
4 exhibits "A" and "B", which relate to that part of
5 the affidavit, on the ground that they relate --

6 THE PRESIDENT: I can see only exhibit "B"
7 and "C". There may be an "A".

8 MR. COMYNS CARR: Your Honor, I should have
9 said exhibits "B" and "C", not "A" -- on the ground
10 that they relate entirely to trade negotiations of a
11 perfectly ordinary commercial character, down to and
12 including the year 1936.

13 Those negotiations have not been the subject
14 of any evidence or attack by the prosecution and
15 resulted in agreements which are the two exhibits.
16 In our submission, those negotiations are entirely
17 irrelevant and evidence with regard to them can be of
18 no assistance whatever to the Tribunal.

19 THE PRESIDENT: You say that they are in the
20 same position as the Ottawa Conference proceedings?

21 MR. COMYNS CARR: Yes.

22 With regard to the remainder of the affidavit,
23 the numbered paragraph 2 beginning on page 5 , we
24 have no objection to that, but exhibit 1731-A which
25 relates to it, is merely a repetition of part of

ISHIZAWA

DIRECT

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1 prosecution exhibit 1309-A, as appears on its face.
2 I gather that the defense desire to read certain
3 parts of that exhibit which were not read by the
4 prosecution, but that they can do as has always been
5 done before without burdening the record with an extra
6 copy of it.

7 Your Honor, I am told I am mistaken about that
8 and I withdraw the objection to 1731-A. The exhibit
9 doesn't contain the parts they want to read. My
10 objection is to the first part of the affidavit.

11 THE PRESIDENT: To paragraph 1 of the affidavit
12 and --

13 MR. COMYNS CARR: Paragraph 1 of the affidavit
14 and exhibits "B" and "C."

15 THE PRESIDENT: Mr. Logan.

16 MR. LOGAN: This Division I stands in a
17 different category, although we think that the Ottawa
18 Conference was equally admissible, but is entirely
19 different than that.

20 Although there are various charges of
21 conspiracy in the Indictment, I shall just refer the
22 Tribunal to Count I, the very first one, wherein it
23 states that all the defendants between January 1, 1928
24 and the 2nd of September 1945 "participated as leaders,
25 and instigators, or accomplices in the formulation

ISHIZAWA

DIRECT

1 of a common plan or conspiracy" and "the object
2 of such plan or conspiracy was that Japan should
3 secure the military, naval, political and economic
4 domination of East Asia and of the Pacific and Indian
5 Oceans, and of all countries and islands therein and
6 bordering thereon." In addition, the Netherlands
7 East Indies, of course, comes squarely within that.
8 But, in addition thereto Mr. Mulder, in his opening
9 statement of this phase for the prosecution stated,
10 "However, a more ambitious program had been drawn up
11 aiming at the domination of the whole of the Netherlands
12 East Indies through the latter's compliance with far
13 reaching Japanese demands." It is not restricted to
14 any one period and the purpose of this paragraph 1
15 of the affidavit is to show that negotiations between
16 Japan and the Netherlands East Indies were conducted
17 in a peaceful manner.
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1 THE PRESIDENT: But Mr. Comyns Carr says
2 the contrary is not suggested by the prosecution.

3 MR. LOGAN: Well, it is still alleged in the
4 Indictment. It has not been withdrawn at all and we
5 must assume from the fact that our motions to dis-
6 miss were denied that there is some evidence on
7 each and every count of the Indictment. If the
8 prosecution wishes to withdraw its charges in the
9 Indictment with respect to any conspiracy regarding
10 the Netherlands East Indies, I will withdraw the
11 affidavit.

12 MR. COMYNS CARR: Your Honor, there is no
13 allegation in the Indictment or anywhere else relat-
14 ing to these early negotiations with the Netherlands
15 East Indies, and there is therefore nothing to with-
16 draw.

17 THE PRESIDENT: A Member of the Tribunal
18 puts the position this way, Mr. Logan: Is there any
19 question that the negotiations in 1936 resulted in
20 the conclusion of a fruitful commercial treaty be-
21 tween the Netherlands and Japan?

22 MR. LOGAN: I haven't been able to find any
23 evidence in the case that the negotiations during that
24 period of time were anything else than peaceful, con-
25 trary to the charges in the Indictment.

ISHIZAWA

DIRECT

1 THE PRESIDENT: They are not relying on
2 those negotiations, so you have not to establish
3 their innocent quality.

4 MR. LOGAN: But as I say, there may be some
5 evidence in the case that we don't know about, and
6 if the prosecution is willing to admit that there
7 isn't and withdraw that part of the Indictment, it is
8 all right with me.

9 THE PRESIDENT: By a majority the Court
10 upholds the objection and rejects paragraph 1 of the
11 affidavit and Annexes B and C thereto. The balance
12 will be admitted on the usual terms.

13 CLERK OF THE COURT: Defense document 1731
14 and exhibit A attached thereto will receive exhibit
15 No. 2821.

16 (Whereupon, the documents above referred
17 to were marked defense exhibit 2821 and received
18 in evidence.)

19 MR. LOGAN: I shall now read exhibit 2821,
20 deposition of ISHIZAWA, Yutaka, omitting the formal
21 parts.

22 "I graduated from the School of Jurisprudence
23 of the Tokyo Imperial University in March, 1922, and
24 immediately entered the Diplomatic Service. I then
25 held office consecutively at the Japanese Embassies

ISHIZAWA

DIRECT

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in Washington and London, and not long after returning
1 to Japan from London in March, 1934, received appoint-
2 ment to the Bureau of Commercial Affairs. In Nov-
3 ember, 1935, I was appointed Consul-General at Batavia,
4 and arriving at my post on January 27, 1936, remained
5 in that office until May 13, 1937. During this
6 period I negotiated with the competent authorities
7 of the Government of the Netherlands East Indies,
8 with a view to cementing commercial relations between
9 Japan and the Netherlands, and succeeded in conclud-
10 ing an agreement concerning commercial and economic
11 questions with Dr. G. H. C. Hart, the Director of
12 Economic Affairs of the Government of the Netherlands
13 East Indies, on April 9, 1937. In June, 1937, I re-
14 turned to Japan, and in October was ordered to the post
15 of Chief of the Third Section, Bureau of European-
16 Asiatic Affairs. On October 15, 1940, however, I
17 was again appointed Consul-General at Batavia, and
18 leaving Tokyo on November 3, 1940, arrived at my new
19 post in Batavia on the 28th of the same month. At
20 that time there were negotiations in progress concern-
21 ing the commerce between Japan and the Netherlands.
22 Delegate KOBAYAH left Java in October and Ambassador
23 YOSHIZAWA, succeeding KOBASHI, arrived at Batavia at
24 the end of December. I assisted him as an associate

ISHIZAWA

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1 delegate. Unfortunately, the conference between Japan
2 and the Netherlands failed to reach a conclusion, and
3 Delegate YOSHIZAWA, closing the negotiation, returned
4 to Japan in June, 1941. I remained in the office of
5 the Consul-General at Batavia. After the outbreak
6 of the Pacific War, on December 8, 1941, I was in-
7 terned at Batavia by the authorities of the Nether-
8 lands, but as the Japanese forces occupied Java in
9 March, 1942, I was freed, and leaving Batavia early
10 in April, returned to Japan on the 25th of the same
11 month. After that I was ordered to work in the
12 Foreign Office temporarily, and served until November
13 1, 1944, when I was appointed Director of the Bureau
14 of Southern Affairs of the Greater East Asia Ministry.
15 With the termination of the war on August 15, 1945, I
16 tendered my resignation towards the end of the month.

17 "As stated above, I was deeply concerned in
18 the problems between Japan and the Netherlands Indies
19 while in office, and was directly in charge of the
20 negotiations concerning the commercial relations between
21 them."

22 Now page 5, paragraph 2:

23 "2) The negotiations between Japan and the
24 Netherlands Indies in the years 1940-1941.

25 "During the first part of these negotiations

ISHIZAWA

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I was serving at the Foreign Ministry and accordingly
1 I was not directly in charge of the negotiations with
2 the authorities of the Netherlands Indies. Never-
3 theless, conducting the business concerning the
4 Southern areas as the Chief of the Third Section of
5 the Bureau of European-Asiatic Affairs, I was well
6 acquainted with the progress of the negotiations through
7 telegrams and documents and through conversations
8 later with the members of the delegation there.
9

10 "Our delegate KOBAYASHI arrived at Batavia
11 on September 12, 1940, and met Governor-General
12 STARKENBORGH on that same day. He made it clear
13 on that occasion that the conference was to be held
14 with a view to strengthening the economic relations
15 between Japan and the Netherlands Indies through the
16 spirit of co-prosperity, and requested that the
17 Governor-General endeavour to effect an amicable con-
18 clusion to the negotiations. He further pointed out
19 the inefficiency of discussing various problems en
20 bloc, and expressed his desire to settle the petroleum
21 question first of all. The Governor-General agreed to
22 it, and they began with the petroleum question.
23

24 "The Japanese-American Commercial Treaty had
25 already been abrogated by this time, and the economic
pressure of the United States against Japan was being

ISHIZAWA

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gradually stiffened. Japan, which had thus far been
1 depending upon the United States for petroleum and
2 other important resources, had now to import all
3 these resources from the Southern areas. And petro-
4 lumen was especially important, either from the stand-
5 point of national defense or from the necessity of
6 supplying the home industries, and Japan was especially
7 uneasy about it. For such reasons, the negotiations
8 were begun with the question of petroleum. With re-
9 spect to the purchase of petroleum, it was left chief-
10 ly to the negotiation of Mr. MUKAI, who had been put
11 in charge of the oil business by the Japanese, and the
12 oil companies of the Netherlands Indies, as it was
13 necessary to make a technical study of the ability on
14 the part of the Netherlands Indies to provide petrole-
15 um. In the beginning of the negotiations there were
16 some differences of opinions between the two parties,
17 but by the middle of October, 1940, an agreement was
18 reached through the acceptance by the Japanese side
19 of the proposals of the Dutch side of the purchase
20 and sale for one year of -- this addition is on an
21 errata sheet -- of 1,185,000 tons of oil, including

22 120,000 tons of aviation crude oil

23 100,000 tons of crude oil for lubricants

24 540,000 tons of other types of crude oil

ISHIZAWA

DIRECT

25,274

116,500 tons of Diesel oil
1 and a spot sale of 33,000 tons of aviation volatile
2 oil. Though this was not of satisfactory quality,
3 as well as not enough in quantity, the Japanese side
4 acceded to the proposals of the Netherlands -- this
5 is also added to an errata sheet -- and an agreement
6 was thus reached.
7

8 "In the meantime the negotiations between
9 our delegate KOBAYASHI and Dr. Van Mook, the represen-
10 tative of the Netherlands Government, which looked at
11 first as though it would progress satisfactorily,
12 took an unfavorable turn upon Japan's entering into
13 an alliance with Germany and Italy. Delegate KOBAYASHI
14 offered his opinion to Foreign Minister MATSUCK that
15 there was little hope of conclusion of the negotiation
16 and returned to Japan, leaving Surabaya on October 22.
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1 "But the Japanese government, especially
2 the Foreign Office, had firm intentions to bring the
3 negotiations to an amicable conclusion, and was
4 looking in vain for a person of state minister class
5 to succeed Mr. KOBAYASHI as the Japanese delegate.
6 Meanwhile, there was a request by Consul-General
7 SAITO to return to Japan on the grounds of ill-
8 health. Hereupon an idea occurred to Foreign Minister
9 MATSUOKA to appoint me Consul-General at Batavia
10 prior to deciding the head delegate, and have me
11 continue the negotiations with the Government of
12 the Netherlands in my capacity of associate delegate.

13 "It was at the beginning of October that the
14 Foreign Minister privately revealed this idea of his
15 to me. I thought it was necessary to ascertain the
16 aim of the Government, especially the intention of
17 Foreign Minister MATSUOKA, and called upon him at
18 his private residence at Sendagaya to discuss the
19 matter with him. He told me that the negotiations
20 in question between Japan and the Netherlands was
21 aimed at promoting the economic cooperation between
22 Japan and the Netherlands Indies through respecting
23 Netherlands' sovereign rights, negotiation peace-
24 fully, and securing thereby the acquisition of the
25 resources necessary to Japan. Thereupon I told

ISHIZAWA

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1 The Foreign Minister that I considered it impossible
2 to see a successful conclusion of the negotiation be-
3 tween Japan and the Netherlands Indies if Japan intend-
4 ed to ally with Germany, the enemy of the Netherlands,
5 and assist it positively, but there was some hope of
6 successful conclusion if Japan intended, by conclud-
7 ing the Tri-Partite Pact, only to prevent the United
8 States from participating in the European war and
9 at the same time rendering no positive assistance to
10 Germany, and if Japan could convince the Government
11 of the Netherlands on this point. The Foreign Min-
12 ister confessed that he was of the same opinion.
13 Thereupon, I made up my mind to accept the appoint-
14 ment, and start for my new post at Batavia.

15 "As soon as I arrived at Batavia, I called
16 on Governor-General Starkenbough, head delegate
17 Dr. VAN MOOK, and associate delegate Dr. VAN HOGSTRAT-
18 EN, to explain the intention of the Japanese Govern-
19 ment. They all understood the Japanese stand well.
20 Meanwhile, in Japan, Mr. YOSHIZAWA Kenkichi was
21 appointed the head delegate, and the plenipotentiary
22 arrived at Batavia on December 28. And the general
23 proposition, apart from the petroleum question, was
24 presented to Dr. VAN MOOK on January 16, 1941.
25

"The prosecution has produced and read in

court the so-called Japanese demands from the Netherlands Indies Government as Pros. Doc. No. 2748A (2) (Exhibit 1311). But, in reality, this document was nothing more than a mere draft. The memorandum of general proposals presented by the Japanese delegation to the Netherlands Indies Government on January 16, 1941 was another and different document. The said memorandum, contained in Exhibit 1309A (Pros. Doc. No. 2611), was read to the Court on December 4, 1946. The reply of the Netherlands Indies Government to these proposals was given on February 3, 1941, but there were many differences with the Japanese views. Preliminary conversations were held, therefore, between Dr. VAN HOGSTRATEN and myself, exchanging views with each other, during the period from February to May, 1941. As a result of these conversations, a compromise was drafted by the Japanese Government, taking into consideration as much of the opinion of the Netherlands Government as possible into it, and was submitted to the Netherlands Government. A part of this draft compromise was contained in Exhibit No. 1309A.

"On June 6 we received the reply of the Netherlands Government, which had many points of differences with ours and the negotiation proved abortive.

ISHIZAWA

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1 On June 17, 1941 Plenipotentiary YOSHIZAWA and I called
2 on Governor-General STARKENBORGH (Dr. VAN MOOK and
3 Dr. VAN HOGSTRATEN were also there in his company)
4 to urge reconsideration on the part of the Netherlands
5 Government. The reply was, however, that there was
6 no room left for reconsideration. Mr. YOSHIZAWA,
7 thereupon, made up his mind to return to Japan.
8 Nevertheless, we suggested the publishing of a joint
9 communique, because we considered it desirable to
10 take proper measures to maintain the friendly rela-
11 tions between Japan and the Netherlands Indies even
12 on leaving Batavia, and showed a draft. To this
13 the Governor-General agreed, and the joint communique
14 was published. (See Page 37 of Exhibit 1309A).

15 "Throughout the negotiations the Japanese
16 Government respected the Netherland's sovereign rights
17 and took a conciliatory attitude consistently with a
18 view to reaching an agreement which would promote the
19 economic cooperation between Japan and the Netherlands
20 Indies.

21 "Signed on the 5th day of June, 1947, at
22 Tokyo. ISHIZAWA, Yataka."

23 I will now read Defense Document 1731A ,
24 which is Exhibit No. 1309A, and call the Tribunal's
25 attention to the fact that the prosecution only

1 read the introductory first paragraph, and for con-
2 tinuity I would like to read it:

3 "In reconsideration of the memorandum which
4 the Japanese Delegation presented to the Netherlands
5 Delegation on the 16th Jan. 1941, they herein present
6 to the Netherlands Delegation the following new pro-
7 posal. They wish to make it clear, however, that the
8 Japanese viewpoint expressed in the preamble of the
9 above-mentioned memorandum is firmly held by the
10 Japanese Government.

11 "1. The entry of Japanese Nationals.

12 "(a) With regard to the entry of Japanese
13 employees, when employers concerned apply for labour
14 permits for their employees, the Government of the
15 Netherlands Indies will give favourable consideration
16 for speedy granting of as many permits as possible,
17 as far as circumstances allow, within the limits of
18 existing regulations, and the permits to be granted
19 will be at least 1600 per annum.

20 "(b) Employees for whom their employers
21 apply for labour permits in order to replace existing
22 employees, and employees for whom their employers
23 apply for the extention of labor permits, and those
24 whose purpose of entry is of temporary nature, are
25 not included in the number cited above in the paragraph

(a).

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1 "(c) In consideration of the necessity in
2 various districts, the Government of the Netherlands
3 Indies will permit, as a whole, a certain number of
4 Japanese doctors (including dentists) to enter the
5 Netherlands Indies, if their object is to practise
6 medical treatment solely to Japanese residents.

7 "It is also understood that Japanese doctors
8 (including dentists), who are permitted to practise
9 medical treatment to Japanese employees working for
10 Japanese enterprises in outer regions, can extend
11 their medical treatment, when necessary, to employees
12 or servants of other nationalities working in the
13 same enterprises.

14 "II. Enterprise and business.

15 "Whenever Japanese nationals concerned
16 submit concrete applications for consent or permission
17 for establishment or extention, etc. of various
18 enterprises and businesses, either in their own
19 account or in joint account with Netherlands enter-
20 prisers, the Government of the Netherlands Indies
21 will give favourable consideration to the said applic-
22 ations, and as far as there are no special obstacles
23 owing to the reasons of national defense or to the
24 necessity of reservation for the subjects of the
25 Netherlands Indies, they will allow previous investig-

1 ations, which are deemed necessary for the execution
2 of their plans, and will give consent or permission
3 for the said establishment or extention, etc.

4 " When the said consent or permission has
5 once been given, the Government of the Netherlands
6 Indies will give favourable treatment and necessary
7 facilities as much as possible for the cngagement of
8 employees, the building up of transportation equip-
9 ments, and other needed establishments, etc.

10 "(a) With regard to the mining, when Japanese
11 enterprisers apply for the permission for explora-
12 tion and exploitation of mineral resources, the Gov-
13 ernment of the Netherlands Indies will give favor-
14 able consideration thereto and will grant required
15 permission, as far as there are no special obstacles.

16 "The same will be the case when Japanese
17 enterprisers apply for the permission for exploration
18 or exploitation according to article 5A of the Mining
19 Law in order to participate in the mining within the
20 area reserved for the Government.

21 "(b) With regard to the fishery, when concrete
22 applications for permission are submitted by Japanese
23 nationals concerned, the Government of the Netherlands
24 Indies will grant permission, provided that there are
25 no special obstacles owing to the reasons of national

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1 defense or to the necessity of reservation for the
2 subjects of the Netherlands Indies, especially for
3 the natives, and they will give favourable treatment
4 and necessary facilities for the engagement of employees
5 working for Japanese fisheries as well as for the es-
6 tablishment of accessory installations necessary for
7 the operation of the said fisheries, etc.

8 "With regard to commercial and other business-
9 es, when applications are submitted by Japanese nat-
10 ionals, the Government of the Netherlands Indies will
11 grant permission, provided that there are no special
12 obstacles, and also concerning warehouse business
13 and others, which are already subjected to the Business
14 Regulation Ordinance, they will give favourable con-
15 sideration to each case, when concrete applications
16 are submitted and they will grant permission, provid-
17 ed that there are no special obstacles.

18 "III. Traffic and communication.

19 "(a) From the viewpoint that the
20 development of air services between Japan and the
21 Netherlands Indies will greatly contribute to the
22 strengthening of economic relations between both
23 countries, the Government of the Netherlands Indies
24 Indies will, at a suitable opportunity in the future,
25 cooperate with the Japanese Government for the open-

1 ing of direct air service between Japan and Netherlands
2 Indies, but, for the time being will cooperate with
3 the Japanese Government for the improvement of con-
4 nection between Japanese and Netherlands aeroplanes
5 at Bangkok, Saigon, and other places.

6 "(b) With regard to the telegraphic
7 communication between Japan and the Netherlands Indies,
8 the Government of the Netherlands Indies will cooperate
9 with the Japanese Government for laying of technically
10 most up-to-date submarine cables, under Japanese
11 management, in order to establish a safe and effic-
12 ient means of communication, at suitable opportunity
13 in the future, but for the time being they will cooper-
14 ate with the Japanese Government for the improvement
15 of the radio telegraphic connection between Malabar
16 and Japan, as well as for the utilization of the sub-
17 marine cable between Yap and Menado.

18 "(c) With regard to the coastal nav-
19 igation, when applications are submitted timely by
20 existing Japanese enterprisers, who feel the neces-
21 sity of their own coastal navigation, owing to the
22 growth of their enterprises, and also when applica-
23 tions are submitted at the beginning as a part of
24 their whole plans by new Japanese enterprisers,
25 who foresee the necessity of their own coastal nav-

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igation, the Government of the Netherlands Indies
1 will grant permission, provided there are no special
2 obstacles owing to the reasons of national defense.

3 "The Government of the Netherlands Indies
4 state that, with regard to the coastal navigation
5 already permitted to Japanese nationals, when Japan-
6 ese nationals concerned, feeling the necessity of
7 the increase in number of or in tonnage of ships,
8 apply for the permission for the said increase, they
9 will grant permission, provided that there are no
10 special obstacles, and they further state that they
11 have no intention to make difficult the navigation
12 and the coastal trade of the ship, which is already
13 permitted to engage herself in the said businesses.

14 "(b) When Japanese nationals concerned,
15 feeling the necessity to have certain closed ports
16 opened for special products or for general trade, in
17 accordance with the development of Japanese enterprises
18 or the increase of products or the furtherance of
19 trade between Japan and the Netherlands Indies, apply
20 for the permission for opening of those closed ports,
21 the Government of the Netherlands Indies will grant
22 permission provided that there are no special obstacles.

23 "(c) When Japanese Nationals concerned, feel-
24 ing the necessity of Japanese ships to call at closed

1 ports for the shipment of products destined for Japan,
2 apply for permission to that end, the Government of
3 the Netherlands Indies will grant permission, provided
4 that there are no special obstacles, and they will
5 treat the matter as promptly as possible.

6 "IV. Trade and commerce.

7 "The Government of the Netherlands
8 Indies state that, in view of the circumstances
9 that the demand of Japanese industries on the products
10 of the Netherlands Indies is rapidly increasing and
11 the increasing import of Japanese articles will con-
12 tribute towards the promotion of the welfare of the
13 people of the Netherlands Indies, they recognize
14 the importance of the position Japan is now occupying
15 and will occupy in the future in the foreign trade of
16 the Netherlands Indies, and will take the following
17 measures to be effected for one year ending 1942.

18 "1. (a) the quotas and or the percentages as shown
19 in the attached Tables I and II shall be
20 allotted to articles to be imported from
21 Japan into the Netherlands Indies.
22 (b) Japanese importers in the Netherlands
23 Indies shall be given import percentages
24 ranging from ten to thirty per cents
25 according to the kinds of articles.

1 "2. Unconditional and prompt permission shall be
2 given for the exportation to Japan of the
3 products of the Netherlands Indies mentioned
4 in the attached list.

5 "3. With regard to the import duties, export
6 taxes, surtaxes and official prices (includ-
7 ing the prices in the Price List) , not only
8 no discriminatory treatment shall be given
9 to the articles imported from or exported to
10 Japan, but also favourable treatment shall
11 be accorded to them.

12 "V. In case neither of the Government of Japan
13 nor the Government of the Netherlands will give notice
14 to terminate the above-cited measures three months
15 before the expiration of the period of one year as
16 mentioned above, the said measures will continue to
17 be operative for successive years, unless notice
18 will be given three months before the expiration of
19 each year.

20 14 May 1941."

21 You may cross-examine.

22 THE PRESIDENT: Mr. Colyns Carr.

23 MR. COLYNS CARR: May it please the Tribunal,
24 there is only one matter about which the prosecution
25 desires to ask a question.

1 Q On page 9, the first sentence of the second
2 paragraph, Mr. ISHIZAWA, you refer to prosecution ex-
3 hibit 1311, and you say that in reality it was nothing
4 more than a mere draft. Would you look at this docu-
5 ment which I have here -- this is a copy, another
6 copy of Exhibit 1311 -- which comes from the Foreign
7 Office, Japanese Foreign Ministry, with the pencilled
8 note on it which you see on the first page.

9 (Whereupon a document was handed
10 to the witness).

11 Now, just follow, would you, the pencilled note and
12 tell me if this is what it says. I will read in English
13 the translation which I have: "Explained by MATSUOKA
14 at the Cabinet conference of 29 August 1940 -- I beg
15 your pardon, 27 August -- after getting approval
16 at the above, this was handed to Delegate KOBAYASHI
17 as reference." Is that what the pencilled note says?

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1 MR. LOGAN: If the Tribunal please, I would
2 like to know if this is also on the original exhibit
3 which is in evidence. In other words, he has handed
4 him a copy here of something. I do not know what it
5 is. I would like to know if that notation he is
6 reading is on the original exhibit in evidence.

7 MR. COMYNS CARR: I carefully explained that
8 it is not.

9 THE PRESIDENT: This note must be proved by
10 the prosecution.

11 MR. COMYNS CARR: If necessary.

12 THE PRESIDENT: Yes, if necessary. They
13 could cross-examine with a view to getting an admis-
14 sion.

15 BY MR. COMYNS CARR (Continued):

16 Q First of all, have I correctly represented
17 the effect of the note as you see it there, Mr.
18 ISHIZAWA?

19 A I think the English translation of the
20 Japanese note in pencil is correct.

21 MR. LOGAN: If the Tribunal please, we con-
22 test the examination of this witness on a pencil nota-
23 tion on a copy. The copy has not even been proved to
24 be a proper copy received from any Japanese authority.
25 We do not know what it is. It is not the original that

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they used.

1 THE PRESIDENT: He was asked, in effect,
2 whether he recognizes this pencil notation, and he
3 said he does. You did not hear him say that; you
4 were walking about. You were not listening to what
5 the witness was saying. If I understand him rightly,
6 he said it was the pencil note.

7 MR. COMYNS CARR: He says that I have given
8 a correct translation of the pencil note as it ap-
9 pears there. I now want to ask him --

10 MR. LOGAN: There is no evidence, if the
11 Tribunal please, as to who put this pencil note on
12 there or when it was put on. At least they might
13 offer it for identification so we could look at it.

14 THE PRESIDENT: If he disclaims any knowledge
15 about this pencil note, who put it there, then it
16 must be proved otherwise.

17 BY MR. COMYNS CARR (Continued):

18 Q On the 27th of August, 1940, Mr. ISHIZAWA,
19 you were in the Foreign Office in Tokyo, were you not?
20

21 A Yes, I was serving at the Foreign Office.

22 Q In the department dealing with this very
23 matter.

24 A Yes, that is so.

25 Q And does not that note correctly represent

what happened on the 27th of August, 1940?

1 A I do not know who made this pencil notation.
2 However, as to the matter described in the pencil
3 note, as I was Chief of the Third Section of the
4 European-Asiatic Affairs Bureau, I can say that it
5 was so.

6 (In English) No, I mean I know about the
7 fact regarding this notation.

8 THE PRESIDENT: Well, tell us what you know
9 about it. Who made it?

10 THE WITNESS: I do not know who made the
11 notation, but I do know of the fact --

12 THE MONITOR: Of the fact mentioned in the
13 notation.

14 Q Do you say that the statement in the nota-
15 tion is true?

16 A The notation is far too simple and does
17 not fully describe the situation. If I may be
18 allowed, I would like to explain -- I am ready to
19 explain in detail the situation existing at that time.

20 Q First of all, answer two questions about it:
21 Did MATSUOKA submit it to the cabinet -- submit this
22 document to the cabinet on the 27th of August, 1940?

23 A The Foreign Minister told me after the
24 cabinet meeting that he explained orally this demand

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1 vis-a-vis the Netherlands East Indies. His explana-
2 tion was understood by the cabinet, he said.

3 THE MONITOR: This draft plan.

4 Q Was it not only understood by the cabinet
5 but also approved by the cabinet?

6 A The Foreign Minister told me at the time that
7 it was understood, but he did not say that it was
8 approved.

9 THE MONITOR: Correction: He told me that
10 they understood, but he did not tell me any further
11 than that.

12 Q Was exhibit 1311 then handed to Mr. KOBA-
13 YASHI to take with him as his instructions?

14 A Concerning this matter, I did not hear
15 directly from the Foreign Minister, but I did hear
16 from the Vice-Minister, Mr. Chuichi OHASHI, who ex-
17 plained to me that this draft was handed to delegate
18 KOBAYASHI merely for his information or as a refer-
19 ence. The draft was not handed to Mr. KOBAYASHI as
20 an instruction. With reference to the Japanese-
21 NEI negotiations, delegate KOBAYASHI was given full
22 powers, and the Foreign Minister had no intention of
23 ordering or instructing KOBAYASHI.

24 MR. COMYNS CARR: May it please the Tribunal,
25 prosecution does not desire to cross-examine this

1 witness any further but desires to draw the attention
2 of the Tribunal to the following exhibits: No. 523,
3 record page 6174; 550, record page 6329; 552, record
4 page 6350; and especially the series, part of which
5 is referred to in the affidavit, 1309A to 1323, in-
6 clusive, record pages 11,717 to 11,883.

7 With regard to the document about which I
8 have been asking the witness, I have no objection to
9 it being marked for identification or shown to the
10 defense, as the Tribunal considers most convenient.

11 THE PRESIDENT: The Clerk should mark it
12 for identification and retain it subject to inspect-
13 ion.

14 We will adjourn for fifteen minutes.

15 (Whereupon, at 1045, a recess was
16 taken until 1100, after which the proceed-
17 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.
3

4 THE PRESIDENT: Mr. Comyns Carr.
5

6 CLERK OF THE COURT: Copy of prosecution
7 exhibit 1311 printed in Japanese with pencil markings
8 thereon in Japanese will receive exhibit No. 2822 for
9 identification only.
10

11 (Whereupon, the document above
12 referred to was marked prosecution
13 exhibit No. 2822 for identification.)
14

15 MR. COMYNS CARR: Your Honor, I wish to
16 correct a slight misstatement which I made about that
17 document. I described it as a copy. I understand it
18 omits the last three pages of exhibit 1311 as it is
19 before the Tribunal. That being so, may I ask the
20 witness a further question?
21

22 CROSS-EXAMINATION
23

24 BY MR. COMYNS CARR (Continued):
25

Q Mr. ISHIZAWA, the document you have just been
looking at omits the last three pages of the document
1311 containing what is described as "Second Proposal."
Can you tell us whether the document which Mr. MATSUOKA
told you he had explained to the cabinet was the whole
document or only the part of it which is there now --
which is on the document you have been looking at?

A I did not see the contents of the document.

1 I gave my particular attention only to the pencil
2 notations and therefore I do not know whether the
3 last three pages had been omitted or not.
4

5 Q You may take it from me that the last three
6 pages of exhibit 1311 described as "Second Proposal"
7 are not on the copy you have been looking at just now.
8 I was not aware of that this morning but it so appears.
9 What I want to know is, did Mr. MATSUOKA explain to
10 the cabinet the whole document with both proposals
11 or only the first proposal?

12 A In my recollection I think he explained only
13 parts thereof.

14 Q Yes, but of both proposals or of only one
15 proposal?

16 A I do not recall the details; however, it is
17 my understanding that Mr. MATSUOKA as Foreign Minister
18 explained to the cabinet the entire plan which had been
19 drafted by the authorities concerned.

20 THE PRESIDENT: Mr. Logan.

21 REDIRECT EXAMINATION

22 BY MR. LOGAN:

23 Q Mr. ISHIZAWA, do you know of any reason why
24 Mr. MATSUOKA did not instruct Mr. KOBAYASHI about
25 these trade negotiations, and if you know of any

reason will you tell us what it was?

1 A I know of those circumstances quite well.

2 I heard of them prior to Mr. KOBAYASHI's departure
3 from Vice Minister OHASHI.

4 Q Tell us what he said.

5 A According to what Mr. OHASHI told me
6 Mr. KOBAYASHI at that time was an active Minister
7 of State holding the portfolio of Minister of Commerce
8 and Industry. The precedent was rare for any active
9 Minister of State to represent Japan as a delegate
10 in a foreign negotiation. Because of the fact that
11 Mr. KOBAYASHI was an active Minister of Commerce and
12 Industry in charge of the economic problems of Japan
13 at the time, and because a man of such a status was
14 especially requested to go to the Netherlands East
15 Indies to take charge of the negotiations between
16 the Netherlands East Indies and Japan, and because
17 he was directly in charge of economic and commercial
18 problems, he was the most versed and qualified member
19 of the cabinet in this respect and therefore on the
20 part of the cabinet as well as on the part of the
21 Foreign Minister it was the desire before the departure
22 of Mr. KOBAYASHI to the negotiations not to issue any
23 instructions or to put him into -- or to bind him with
24 certain strict orders which would make it difficult

reason will you tell us what it was?

1 A I know of those circumstances quite well.

2 I heard of them prior to Mr. KOBAYASHI's departure
3 from Vice Minister OHASHI.

4 Q Tell us what he said.

5 A According to what Mr. OHASHI told me
6 Mr. KOBAYASHI at that time was an active Minister
7 of State holding the portfolio of Minister of Commerce
8 and Industry. The precedent was rare for any active
9 Minister of State to represent Japan as a delegate
10 in a foreign negotiation. Because of the fact that
11 Mr. KOBAYASHI was an active Minister of Commerce and
12 Industry in charge of the economic problems of Japan
13 at the time, and because a man of such a status was
14 especially requested to go to the Netherlands East
15 Indies to take charge of the negotiations between
16 the Netherlands East Indies and Japan, and because
17 he was directly in charge of economic and commercial
18 problems, he was the most versed and qualified member
19 of the cabinet in this respect and therefore on the
20 part of the cabinet as well as on the part of the
21 Foreign Minister it was the desire before the departure
22 of Mr. KOBAYASHI to the negotiations not to issue any
23 instructions or to put him into -- or to bind him with
24 certain strict orders which would make it difficult

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for the chief delegate to participate in the negotiations on behalf of his country. It was the desire of the cabinet, not only the cabinet but also of Foreign Minister MATSUOKA, not to issue any instructions to Mr. KOBAYASHI prior to his departure but to permit him to meet the authorities of the Netherlands East Indies and to engage in free discussions with them in order that he might demonstrate his peculiar talents in this particular field and to arrive at some amicable solution to the problems on hand. It was the policy of the government as well as the Foreign Minister not to issue instructions at first but upon receipt of a detailed report to the Japanese government from chief delegate KOBAYASHI following his discussion with the Netherlands authorities if the Japanese government felt it necessary to issue instructions, then instructions would be issued. That was the policy of the government. It was felt necessary that the draft plan of Japanese demands or requests vis-a-vis the Netherlands East Indies as prepared by the government departments concerned should at least be explained in its entirety to the cabinet and to secure the understanding of the members of the cabinet thereto. After that it was the aim of the government as well as of the Foreign Minister to hand this particular plan to

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1 Mr. KOBAYASHI upon his departure merely as his refer-
2 ence but not to issue any instructions -- but not
3 as an instruction. That was what Mr. OHASHI, the
4 Vice Minister, told me directly.

5 MR. LOGAN: No further questions, your Honor.
6 May the witness be released on the usual terms?

7 THE PRESIDENT: He is released on the usual
8 terms.

9 (Whereupon, the witness was excused.)

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1 MR. LOGAN: We offer in evidence defense
2 document 1400-I-3 being a memorandum of a conversa-
3 tion in Washington, dated July 2, 1941, between Mr.
4 Ballantine, Mr. Schmidt, Mr. Hamilton, Colonel
5 IWAKURO and Mr. WIKAWA on July 2, 1941.

6 THE PRESIDENT: Brigadier Quilliam.

7 BRIGADIER QUILLIAM: May it please the
8 Tribunal, in our submission this document is quite
9 immaterial. Apparently all it consists of is an
10 unsupported charge by Mr. WIKAWA against a private
11 financial firm which acts as agent for the Japanese
12 Government.

13 MR. LOGAN: The Tribunal will probably re-
14 call that Mr. Ballantine testified about various
15 conversations that he had with the gentlemen men-
16 tioned in this memorandum and we are offering it
17 for the purpose of showing that as early as July 2,
18 1941, there was information from the United States
19 State Department about the freezing orders which
20 were to be made effective July 26, 1941.

22 THE PRESIDENT: The United States is not
23 identified with Morgan and Company, certainly.

24 MR. LOGAN: There is a statement there,
25 Mr. Ballantine was present, with regard to infor-
mation from the State Department.

1 THE PRESIDENT: This merely suggests
2 possible leakage to Morgan and Company who acted
3 on the strength of it. The fact is the freezing
4 took place later. This does not seem to be
5 relevant at all.

6 MR. LOGAN: Mr. Ballantine, as you probably
7 recall, was a representative of the State Depart-
8 ment. He was here at this conversation. There is
9 no denial by him of it.

10 THE PRESIDENT: The freezing of assets is
11 established. It was established by the prosecution's
12 evidence. This is purely a collateral matter affect-
13 ing a company.

14 MR. LOGAN: On the contrary, if the Tribunal
15 please, the prosecution's contention, as I understand
16 it, is that the freezing orders went into effect
17 after Japan went into Indo-China. Now, this
18 definitely shows that as of July 2, 1941 the State
19 Department in a conversation at which Mr. Ballantine
20 was present, and a member of the State Department,
21 it appeared that the State Department had resolved
22 to put those freezing orders into effect as early
23 as July 2, 1941.

24 THE PRESIDENT: As I am reminded, that
25 should have been put to Mr. Ballantine.

MR. LOGAN: If we had had the information at that time, your Honor, we would have been glad to do that.

4 THE PRESIDENT: We notice this excerpt is
5 from "Foreign Relations of the United States,"
6 Volume 2, page 495.

7 MR. LOGAN: That is right.

8 THE PRESIDENT: Was that not in existence
9 while Mr. Ballantine was here?

10 MR. LOGAN: Yes, your Honor, that was, as
11 well as a large number of other books, and it is
12 unfortunate that we were unable to uncover this
13 particular memorandum at that time.

14 THE PRESIDENT: How is it relevant if the
15 United States, even in July, 1941, contemplated
16 freezing, under some circumstances about which we
17 know nothing, but did not carry it out
18 until later?

19 MR. LOGAN: The prosecution has contended,
20 if the Tribunal please, that the imposition of the
21 freezing orders was a retaliatory measure for
22 Japan's advance into Indo-China. Now, this shows
23 that as early as July 2, 1941, there was information
24 that they were expected to be imposed in the near
25 future. It would be for the Tribunal to determine

1 whether or not it was a retaliatory measure.
2

3 BRIGADIER QUILLIAM: May I respectfully
4 point out to the Tribunal that there was a lot of
5 evidence that Japan intended to go into French
6 Indo-China before she actually did.
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8 THE PRESIDENT: By a majority, the Court
9 upholds the objection and rejects the document.
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1 On July 18, 1941 a memorandum by the
2 Acting Secretary of State was issued regarding a
3 request by the Japanese Ambassador with respect to
4 certain Japanese steamers which had been held up at
5 the Panama Canal. This is set forth in defense
6 document 1400-M-5, which is offered in evidence.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: May it please the
9 Tribunal, it is submitted that this document is
10 also quite immaterial. It is merely a request for
11 assistance in getting some Japanese ships through
12 the Panama Canal and a promise to investigate the
13 position and see what could be done. It is submitted
14 that it contributes nothing whatever to the case.

15 MR. LOGAN: It shows, if the Tribunal
16 please, that as early as July 18, 1941 economic
17 pressure was also applied against Japanese shipping
18 by holding up ships coming through the canal.

19 THE PRESIDENT: Well, you have given evidence
20 on the embargo against the use of American goods.
21 This is evidence of an embargo against the use of
22 American canals or canals controlled by America. We
23 admit it is an embargo against goods tentatively.

24 BRIGADIER QUILLIAM: May it please your
25 Honor, it is suggested that this does not show an

1 embargo against Japan at all. It shows conduct on
2 the part of the Japanese, which is quite general in
3 its application. I am sorry. I should have said
4 conduct on the part of the Americans who controlled
5 the canal. And it is pointed out that if ships of
6 other nations were going through the canal they
7 must be carrying important cargoes for the United
8 States, and that is why they should be allowed to go
9 through.

10 MR. LOGAN: It shows discriminatory treat-
11 ment, if the Tribunal please, against Japan. Other
12 ships of other nations were permitted to go through;
13 Japanese ships were held up.

14 THE PRESIDENT: By a majority the objection
15 is overruled tentatively and the document admitted
16 tentatively.

17 CLERK OF THE COURT: Defense document
18 1400-M-5 will receive exhibit No. 2823.

19 ('hereupon, the document above
20 referred to was marked defense exhibit
21 No. 2823 and received in evidence.)

22 MR. LOGAN: Exhibit 2823 (reading):
23 "Memorandum by the Acting Secretary of
24 State (Washington), July 18, 1941.

25 "The Japanese Ambassador called to see me

1 this evening at his request. The Ambassador asked
2 if I would lend my good offices in helping to solve
3 a situation which had been created owing to the fact
4 that three Japanese steamers had been held up at
5 Cristobel on the Atlantic side of the Panama Canal
6 and that some six other Japanese steamers were now
7 headed for the Canal for the purpose of transiting.
8 The Ambassador said that these steamers could not
9 transit, although he had word from Japanese shipping
10 sources that ships of other nationalities were being
11 permitted to transit.

12 "I said to the Ambassador that I would be
13 glad to investigate and if I had any information
14 which would be useful to him, I would be glad to
15 have it transmitted. I said that it was my under-
16 standing that about July 11 the Canal authorities had
17 issued an order notifying shipping that repairs had
18 to be undertaken in the Canal and that for that
19 reason merchant shipping which desired to transit the
20 Canal would have to be prohibited or severely re-
21 structed for an indefinite period. The Ambassador
22 inquired with regard to the report he had concerning
23 the fact that other flagships were being enabled to
24 come through. I said that if this were in fact the
25 case, I assumed that they must be merchant ships

1 carrying material required for the United States
2 defense program and I said I was of course sure
3 the Ambassador would agree that it was entirely
4 logical to suppose that if any exceptions were
5 made, ships carrying cargoes urgently required for
6 our defense program would be granted preference.

7 "(S) Sumner Welles."

8 Defense document 401-B-7, corrected, being
9 an excerpt from "Peace and War," and relating to
10 a conversation on July 21, 1941 between President
11 Roosevelt and the Japanese Ambassador, is now
12 offered in evidence. This conversation refers to
13 the oil situation.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document
16 401-B-7 will receive exhibit No. 2824.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 2824 and received in evidence.)

20 MR. LOGAN: Exhibit 2824, "Excerpt from
21 'Peace and War,' United States Foreign Policy,
22 1931-1941." This is a conversation held July 21,
23 1941, between President Roosevelt and the Japanese
24 Ambassador.

25 "In the course of this conversation the

1 President reminded the Japanese Ambassador that
2 the United States had been permitting oil to be
3 exported from the United States to Japan; that this
4 had been done because we realized that if these oil
5 supplies had been shut off or restricted the Japanese
6 Government and people would have used this as an
7 incentive or pretext for moving down upon the
8 Netherlands Indies in order to assure themselves
9 of a greater oil supply; that the United States
10 had been pursuing this policy primarily for the
11 purpose of doing its utmost to preserve peace in
12 the Pacific region; that our citizens were unable
13 to understand why, at a time when they were asked
14 to curtail their use of gasoline, the United States
15 should be permitting oil supplies to go to Japan
16 when Japan had given every indication of pursuing
17 a policy of force and conquest in conjunction with
18 the policy of world conquest and domination being
19 carried on by Hitler. The President said that if
20 Japan attempted to seize oil supplies by force in
21 the Netherlands Indies, the latter would undoubtedly
22 resist, the British would immediately come to their
23 assistance, and war would then result. In view of
24 our own policy of assisting Great Britain, 'an
25 exceedingly serious situation would immediately

1 result.' The President stated that with these facts
2 in mind oil had up to this time been permitted to
3 be shipped from the United States to Japan, notwithstanding
4 the bitter criticism leveled against the
5 administration.

6 "President Roosevelt discussed this ques-
7 tion in an informal talk at the White House on
8 July 24. He explained the essential necessity,
9 from the standpoint of our own defense and of that
10 of Great Britain, of preventing war from breaking out
11 in the South Pacific. He said that if oil supplies
12 from the United States had been cut off, Japan
13 probably would have attacked the Netherlands Indies
14 to obtain oil and war would have resulted; that
15 the policy of the United States in allowing oil to
16 go to Japan had succeeded in keeping war out of the
17 South Pacific, 'for our own good, for the good of
18 the defense of Great Britain, and the freedom of
19 the seas.'"

20 We offer in evidence defense document
21 1400-K-3, being a memorandum dated Washington,
22 July 21, 1941, from Rear Admiral Turner to Admiral
23 Stark, Chief of Naval Operations, with respect to
24 aid to China.

25 THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Defense document
2 1400-K-3 will receive exhibit No. 2825.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 2825 and received in evidence.)

6 MR. LOGAN: Exhibit 2825, "The Director
7 of the War Plans Division of the Navy Department
8 (Rear Admiral Turner) to the Chief of Naval Opera-
9 tions (Admiral Stark).

10 "Memorandum, Washington, July 21, 1941.

11 "1. On July 20, 1941, about 3 P. M.,
12 Ambassador NOMURA called on me at my residence.***

13 "5. He then talked at length on the points
14 which Japan considered essential for an agreement
15 between the United States and Japan. The fundamental
16 basis of such an agreement necessarily would be that
17 either Power would be free to take such steps as
18 seem to be required by its own responsibility for
19 self-defense. He mentioned that, owing to export
20 restrictions against Japan by the United States and
21 the Philippines, and owing to a reduction in shipping
22 tonnage available for trade, Japan's present economic
23 position is bad and steadily getting worse. It is
24 essential that Japan have uninterrupted access to
25 necessary raw materials, particularly iron ore and

1 iron products, oil, rubber, cotton and food. There
2 are other important items as well.

3 "6. The second point is that the United
4 States is constantly providing greater support to
5 China. If China is left without industrial and mili-
6 tary support, it will not be long before the Chung-
7 king regime will be unable to continue the present
8 'China Incident'; Japan will then be able to withdraw
9 from the greater part of China. However, Ambassador
10 NOMURA noted that the United States is improving
11 the Burma Road, and is supplying airplanes and pilots
12 to be sent to Chungking. He understands that there
13 are over a hundred American pilots now en route, who
14 have been supplied from the armed forces of the United
15 States. Japan must make some arrangement through
16 which support of this nature will be reduced rather
17 than increased. The British are also contributing
18 more and more to measures designed to sustain the
19 Chungking regime. ***

20 "8. He then informed me that within the
21 next few days Japan expects to occupy French Indo-
22 China. How the occupation would be made he is not
23 informed; presumably, it would be chiefly by an over-
24 land march from Hanoi southward, but on this he is not
25 yet informed. In any case, for the immediate future

1 security of Japan, both against a possible attack
2 from the south and for a better control over the
3 activities of Chungking, this occupation has become
4 essential.

5 "9. It was evident that Ambassador NOMURA
6 had some apprehension that the United States would
7 take further action against Japan, either economi-
8 cally or militarily, as soon as Japanese troops
9 were known to be occupying French Indo-China. He
10 anticipates an intensification of the present press
11 campaign against Japan in the United States. It
12 seems, though he did not so state categorically,
13 that Japan contemplates no further move to the
14 south for the time being. He made no mention of
15 possible activity against Siberia. ***"

16 Signed, "R. K. Turner."

17 "Transmitted to President Roosevelt and to
18 the Secretary of State by Admiral Stark."

19 THE PRESIDENT: This is only three days
20 after Mr. Sumner Welles' memorandum.

21 MR. LOGAN: Defense document 1500-E-3 is
22 an excerpt dated July 25, 1941, and deals with
23 sanctions against Japan. This is a memorandum from
24 Brigadier General Sherman Miles to the Chief of Staff.
25 Copies were also sent to the Secretary of War,

1 Secretary Joint Board, Deputy Chief of Staff, War
2 Plans Division. It deals with the Japanese Govern-
3 ment's decision to take over control of capital
4 funds because of the deplorable economic conditions
5 in Japan. This document is offered in evidence.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document
8 1500-E-3 will receive exhibit No. 2826.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 2826 and received in evidence.)

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MR. LOGAN: (Reading) "Military Intelligence
Estimates Prepared by G-2, War Department, Washington,

D. C.

3 "July 25, 1941. Subject: Sanctions against
4
5 Japan. (Excerpt)

6 "July 25, 1941. Memorandum for the Chief of
7 Staff. Subject: Sanctions against Japan.

8 "Discussion.

9 "1. On July 12, 1941 the Japanese Government
10 announced that it had decided to take over control of
11 the nation's capital funds which are to be mobilized
12 in the interests of the state. The new policy apparently
13 discards the past economic setup and calls for mobili-
14 zation and distribution of capital at the will of the
15 government in order to attain maximum production as
16 well as to bolster the defense structure.

17 "2. The new policy is obviously a belated
18 attempt to improve the deplorable economic conditions
19 in Japan -- conditions pointed out in confidential
20 Economic Estimate, Japan, May 27, 1941, compiled in
21 the Far Eastern Section, this division, a copy of which
22 is attached hereto as Tab I.*

21
25 "Sherman Miles, Brigadier General, U. S. Army,
Acting Assistant Chief of Staff, G-2.

1 "1 Enclosure: Tab I. Copies to: Secretary
2 of War; Secretary, Joint Board; Deputy Chief of Staff;
3 War Plans Division.

4 "(Pencilled notation:) This memo was written
5 prior to receipt of information regarding embargo
6 decision. S.M. H."

7 On July 25, 1941, President Roosevelt issued
8 a radio bulletin setting forth that the reason why the
9 United States continued to send oil to Japan was with
10 the hope -- which had worked for two years -- of keeping
11 war out of the South Pacific. This excerpt, defense
12 document 1400-R-5, is from Foreign Relations of the
13 United States, and is offered in evidence.

14 THE PRESIDENT: Brigadier Quilliam.

15 BRIGADIER QUILLIAM: If it please the Tribunal,
16 this is a piece of United States propaganda in support
17 of its embargo policy. It is submitted that in
18 addition to being irrelevant it has no probative value
19 and it does not assist the Tribunal. We ask for its
20 rejection.

21 MR. LOGAN: If the Tribunal please, this is
22 the complete speech which is briefly mentioned in
23 exhibit 2824 which was just offered in evidence and
24 which was not objected to by the prosecution. It
25 refers to the same conversation, your Honor. I think

1 if we read this we will find this true. It is the
2 reason why oil had been prohibited from being sent to
3 the Netherlands East Indies. Furthermore, I do not
4 think there is any possibility of its coming within
5 the classification of propaganda as related here by
my friend.

6 THE PRESIDENT: No, it wouldn't be rejected
7 on that ground. But it seems to be the same speech as
8 made by the President on the 24th of July as appears
9 in exhibit 2824 just admitted. I should say, it is a
10 comment on the President's speech the day before.

11 MR. LOGAN: Except it gives it in more detail.
12 It is just briefly mentioned in 2824, and this just
13 gives it more completely.

14 BRIGADIER QUILLIAM: There can be no doubt,
15 your Honor, that this does refer to the second paragraph
16 of exhibit 2824. We did not object to 2824 primarily
17 because we considered that the Tribunal would hold it
18 as part of the negotiations between the parties
19 because that is what the document in substance deals
20 with.

21 THE PRESIDENT: We should be satisfied with
22 the President's speech or conversation. We do not look
23 for expositions of it by somebody else.

24 MR. LOGAN: This is a radio bulletin issued

by the White House.

1 THE PRESIDENT: Are you asking us to prefer
2 this to the President's speech?

3 MR. LOGAN: Apparently this is the President's
4 speech. It is in quotations.

5 THE PRESIDENT: This is not the President's
6 speech, as we understand it.

7 MR. LOGAN: I understand it is, your Honor.

8 THE PRESIDENT: We will allow you to prove
9 the exact words of the President if you get them.
10 We cannot assume that these are the exact words.

11 MR. LOGAN: I firmly believe they are, if the
12 Tribunal please, but if you wish me to I will check
13 it to make absolutely certain.

14 THE PRESIDENT: Do you undertake to establish
15 that they are his exact words?

16 MR. LOGAN: I will check it from the book to
17 make absolutely certain, but I understand that they
18 are, yes, sir.

19 THE PRESIDENT: We could admit it provisionally.

20 MR. LOGAN: All right; and then I will check
21 it.

22 Prosecution just informed me, if the Tribunal
23 please, that they believe it is his speech, too.

24 THE PRESIDENT: The objection is overruled --

1 I suppose it is withdrawn, really -- and the document
2 admitted on the usual terms.

3 CLERK OF THE COURT: Defense document
4 1400-R-5 will receive exhibit No. 2827.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 2827 and received in evidence.)

8 MR. LOGAN: I will now read exhibit 2827.

9 "Excerpt from Radio Bulletin No. 176, Issued
10 by the White House on July 25, 1941.

11 "All right. Now the answer is a very simple
12 one. There is a world war going on, and has been for
13 some time -- nearly two years. One of our efforts,
14 from the very beginning, was to prevent the spread of
15 that world war in certain areas where it hadn't started.
16 One of those areas is a place called the Pacific Ocean --
17 one of the largest areas of the earth. There happened
18 to be a place in the South Pacific where we had to get
19 a lot of things -- rubber, tin, and so forth and so on --
20 down in the Dutch Indies, the Straits Settlements, and
21 Indo-China. And we had to help get the Australian
22 surplus of meat and wheat, and corn, for England.
23

24 "It was very essential from our own selfish
25 point of view of defense to prevent a war from starting
in the South Pacific. So our foreign policy was --

1 trying to stop a war from breaking out down there.

2 At the same time, from the point of view of even France
3 at that time -- of course France still had her head
4 above water -- we wanted to keep that line of supplies
5 from Australia and New Zealand going to the Near East --
6 all their troops, all their supplies that they have
7 maintained in Syria, North Africa and Palestine. So
8 it was essential for Great Britain that we try to keep
9 the peace down there in the South Pacific.

10 "All right. And now here is a nation called
11 Japan. Whether they had at that time aggressive pur-
12 poses to enlarge their empire southward, they didn't
13 have any oil of their own up in the north. Now, if we
14 cut the oil off, they probably would have gone down to
15 the Dutch East Indies a year ago, and you would have
16 had war.

17 "Therefore, there was -- you might call -- a
18 method in letting this oil go to Japan, with the hope --
19 and it has worked for two years -- of keeping war out
20 of the South Pacific for our own good, for the good of
21 the defense of Great Britain, and the freedom of the
22 seas."

23 THE PRESIDENT: This is a convenient break.
24 We will adjourn until half-past one.

25 (Whereupon, at 1200 a recess was taken.)

Lefler & Wolf

AFTERNOON SESSION

The Tribunal met, pursuant to recess,
at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: With the Tribunal's permission, the accused TOGO will be absent from the courtroom this afternoon conferring with his counsel.

19 Mr. Logan.

11 MR. LOGAN: If the Tribunal please, we offer
12 in evidence defense document 1500-K-2. This is a
13 message from the United States Chief of Naval Operations
14 to Admiral Kimmel, and others, which shows that the
15 military authorities in the United States were acting
16 in concert with the State Department in regard to
17 imposition of sanctions against Japan on July 26, 1941.

18 THE PRESIDENT: Brigadier Quilliam.

19 BRIGADIER QUILLIAM: May it please the Tribunal,
20 we submit this document is irrelevant. It is merely
21 the instructions given on the imposition of sanctions
22 to the United States Navy and were instructions as to
23 the necessary precautions to be taken.

24 THE PRESIDENT: The implementing of their
25 freezing order?

BRIGADIER QUILLIAM: That is our submission, if it please your Honor, that it is merely a routine matter and does not carry the issue any further.

MR. LOGAN: It goes a little further than that, your Honor. You will note that it also refers to action being initiated calling the Philippine Army into active service. It shows the beginning of some real active military preparations as well as the commencement of these sanctions.

THE PRESIDENT: The objection is overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Defense document 1500-K-2
will receive exhibit No. 2828.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 2828 and received in evidence.)

17 MR. LOGAN: I might point out at this time,
18 for the Tribunal's convenience, that all documents in
19 the 1500 series come from the Congressional Investigation
20 of the Pearl Harbor Attack.

21 "25 July 1941 from CNO to Kimmel et al.

²² | Subject: Economic Sanctions against Japan.

23 "This is a joint dispatch from the CNO and
24 the Chief of Staff US Army X Appropriate addressees deliver
25 copies to Commanding Generals Hawaii Philippines and

1 Caribbean Defense Command and to General Chaney in
2 London XX You are advised that at 1400 GCT July
3 twenty-sixth United States will impose economic
4 sanctions against Japan X It is expected these sanctions
5 will embargo all trade between Japan and the United
6 States subject to modification through a licensing
7 system for certain material X It is anticipated that
8 export licenses will be granted for certain grades
9 of petroleum products cotton and possibly some other
10 materials and that import licenses may be granted for
11 raw silk X Japanese assets and fund in the United
12 States will be frozen except that they may be moved
13 if licenses are granted for such movement X It is not
14 repeat not expected that Japanese merchant vessels
15 in United States ports will be seized at this time X
16 United States flag merchant vessels will not at present
17 be ordered to depart from or not enter ports controlled
18 by Japan X CNO and COS do not anticipate immediate
19 hostile reaction by Japan through the use of military
20 means but you are furnished this information in order
21 that you may take appropriate precautionary measures
22 against possible eventualities X Action being initiated
23 by the United States Army to call the Philippine Army
24 into active service at an early date XX This despatch
25 is to be kept secret except from immediate Navy and

1 Army subordinates X SPENAVO informs CNS but warn
2 him against disclosure X Action addees this dis
3 are Cincpac Cinclant Cincaf Com Fifteen Spenavo
4 London XX Secret"

5 A press release was issued by the White
6 House on July 25, 1941 stating that the Executive
7 Order was issued on that date freezing Japanese assets
8 in the United States and that this measure was bringing
9 all financial, import and export trade transactions in
10 which Japanese interests were involved under the
11 control of the Government. It also shows that the
12 Chinese assets were frozen at the same time at the
13 request of Chiang Kai Shek. This release which is
14 defense document 1400-N-5 is now offered in evidence.

15 This document is a tentative document.

16 THE PRESIDENT: Admitted tentatively.

17 CLERK OF THE COURT: Defense document 1400-N-5
18 will receive exhibit No. 2829.

19 (Whereupon, the document above
20 referred to was marked defense exhibit
21 No. 2829 and received in evidence.)

22 MR. LOGAN: I shall read from exhibit 2829:
23 "Press Release Issued at Poughkeepsie,
24 New York, by the White House on July 25, 1941
25 "In view of the unlimited national emergency

1 Army subordinates X SPENAVO informs CNS but warn
2 him against disclosure X Action addees this dis
3 are Cincpac Cinclant Cincaf Com Fifteen Spenavo
4 London XX Secret"

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6 House on July 25, 1941 stating that the Executive
7 Order was issued on that date freezing Japanese assets
8 in the United States and that this measure was bringing
9 all financial, import and export trade transactions in
10 which Japanese interests were involved under the
11 control of the Government. It also shows that the
12 Chinese assets were frozen at the same time at the
13 request of Chiang Kai Shek. This release which is
14 defense document 1400-N-5 is now offered in evidence.

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16 THE PRESIDENT: Admitted tentatively.

17 CLERK OF THE COURT: Defense document 1400-N-5
18 will receive exhibit No. 2829.

19 (Whereupon, the document above
20 referred to was marked defense exhibit
21 No. 2829 and received in evidence.)

22 MR. LOGAN: I shall read from exhibit 2829:
23 "Press Release Issued at Poughkeepsie,
24 New York, by the White House on July 25, 1941
25 "In view of the unlimited national emergency

1 declared by the President, he has today issued an
2 Executive Order freezing Japanese assets in the
3 United States in the same manner in which assets of
4 various European countries were frozen on June 14, 1941.
5 This measure, in effect, brings all financial and import
6 and export trade transactions in which Japanese
7 interests are involved under the control of the
8 Government, and imposes criminal penalties for
9 violation of the Order.

10 "This Executive Order, just as the Order of
11 June 14, 1941, is designed among other things to
12 prevent the use of the financial facilities of the
13 United States and trade between Japan and the United
14 States, in ways harmful to national defense and
15 American interests, to prevent the liquidation in the
16 United States of assets obtained by duress or conquest,
17 and to curb subversive activities in the United States.

18 "At the specific request of Generalissimo
19 Chiang Kai-shek, and for the purpose of helping the
20 Chinese government, the President has, at the same time,
21 extended the freezing control to Chinese assets in the
22 United States. The Administration of the licensing
23 system with respect to Chinese assets will be conducted
24 with a view to strengthening the foreign trade and
25 exchange position of the Chinese government. The

1 inclusion of China in the Executive Order, in
2 accordance with the wishes of the Chinese government,
3 is a continuation of this Government's policy of
4 assisting China."

5 Defense document 220, processed for the
6 defense by the prosecution, BR 146A, is an excerpt
7 from exhibit 58, being a document handed by Japanese
8 Minister TOYODA to American Ambassador Grew on July
9 25, 1941 is offered in evidence. In this document
10 TOYODA sets forth the reaction of the Japanese people
11 to the economic sanctions, aid to Chiang Kai-shek
12 and the Netherlands East Indies-Japanese negotiations.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document 220
15 will receive exhibit No. 2830.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2830 and received in evidence.)

19 MR. LOGAN: I shall read exhibit 2830:

20 "THE JAPANESE MINISTER FOR FOREIGN AFFAIRS
21 (TOYODA) TO THE AMERICAN AMBASSADOR IN JAPAN (GREW)

22 "(TOKYO) JULY 25, 1941.

23 "Between the Japanese Government and the
24 Vichy Government there was amicably reached an
25 agreement of views on the twenty-first of July, 1941,

1 concerning the joint protection of French Indo-China,
2 and an announcement on the agreement is soon to be
3 made.

4 "I asked for an appointment with Your
5 Excellency this evening in order to take this
6 opportunity, on behalf of the Japanese Government
7 of informing Your Excellency in advance of the measure
8 just referred to, and of making the situation clear
9 so that there may be no unnecessary misunderstanding
10 which may arise from this question, in view of the
11 foreign press reporting unfounded rumors such as that
12 the Japanese Government had sent the Vichy Government
13 an ultimatum.

14 "The relations between Japan and French
15 Indo-China have recently become more friendly by the
16 so-called MATSUOKA-Henri Pact of August, last year, and
17 several other Franco-Japanese agreements; and in view
18 of the fact that it is to the common interest of both
19 Japan and France to insure the safety of French Indo-
20 China and to prevent the disturbance of peace in the
21 same area under the existing complicated international
22 situation, the Japanese and French Governments have, at
23 this time, as already stated, arrived at an under-
24 standing as regards joint protection of French Indo-
25 China.

1 "As a matter of fact, we are receiving
2 numerous reports that America should adopt more
3 stringent anti-Japanese economic measures such as
4 the freezing of Japanese capital in America and a
5 complete embargo of petroleum oil as retaliatory steps
6 against the measure just mentioned; and if the above
7 should ever be realized, I deeply apprehend that it
8 will be difficult to prevent the unexpected agitation
9 of antagonism among the Japanese people against aid to
10 the Chiang Kai-shek regime and the encirclement campaign
11 against Japan which antagonism the government has so
12 carefully repressed until today.

13 "It seems that in the United States there is an
14 element which possesses an unpleasant feeling against
15 the measure which I have just mentioned, but viewing it
16 in a fair and composed attitude from an objective stand-
17 point, such a measure is truly unavoidable from a
18 broad viewpoint of maintaining peace in the Pacific by
19 preventing a more serious aggravation of the feelings
20 of the Japanese people, which are steadily being
21 excited by such facts as the unsatisfactory result of
22 the Netherlands East Indies-Japanese negotiations, and
23 as is well known, the almost daily reports from abroad
24 about the tightening of the encirclement campaign against
25 Japan. I earnestly hope that Your Excellency will

1 fully comprehend the disposal at issue being
2 necessitated by sincere hope for the maintenance
3 of the peace in the Pacific and cooperate in
4 keeping the door open for my hope and further efforts
5 directed toward amicable solution of Japanese-American
6 relations."

7 Defense document 401-59 relating to the
8 freezing of Japanese assets in the United States,
9 being an excerpt from Peace and War, is now offered
10 in evidence. Although the evidence of this freezing
11 order is already in, I am just offering the last several
12 lines there, the effect of the freezing orders.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document 401-59
15 will receive exhibit No. 2831.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2831 and received in evidence.)

19 MR. LOGAN: I shall read exhibit 2831:
20 "FREEZING OF JAPANESE ASSETS IN THE UNITED
21 STATES

22 "On July 26, 1941 President Roosevelt issued
23 an Executive Order freezing Japanese assets in the
24 United States. This order brought under control of
25 the Government all financial and import and export

1 trade transactions in which Japanese interests were
2 involved, and the effect of this was to bring about
3 very soon the virtual cessation of trade between the
4 United States and Japan."

5 The next day on July 26, 1941 Executive
6 Order 8832 was signed which amended Executive Order
7 8839 of April 10, 1940 to include China and Japan.
8 This is set forth in defense document 1400-0-5. This
9 document will be a tentative one.

10 THE PRESIDENT: Admitted tentatively.

11 CLERK OF THE COURT: Defense document 1400-0-5
12 will receive exhibit No. 2832.

13 (Whereupon, the document above
14 referred to was marked defense exhibit
15 No. 2832 and received in evidence.)

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MR. LOGAN: Exhibit 2832, "Executive Order No. 8832, Signed by President Roosevelt, July 26, 1941," shows that the act of October 6, 1917, as amended by executive order of April 10, 1940, as amended, includes, as of June 14, 1941, China and Japan.

6 We now offer in evidence defense document
7 1733 which is an official note of the British Am-
8 bassador in Japan to Foreign Minister TOYODA, dated
9 July 26, 1941, abrogating the Anglo-Japanese Treaty
10 of Commerce and Navigation.

11 THE PRESIDENT: Brigadier Quilliam.

12 BRIGADIER QUILLIAM: May it please the Tri-
13 bunal, we desire to point out that the matters cover-
14 ed in this document have already been proved, as in
15 the case of two or three other documents which have
16 just been presented.

17 MR. LOGAN: I don't know whether there is
18 any evidence of this in the case, your Honor.

19 THE PRESIDENT: I think there is evidence
20
21 that this particular treaty was abrogated.

21 MR. LOGAN: I can't recall any in the case
22
23 at all.

24 THE PRESIDENT: It is admitted that it is,

RESEARCHER WILLIAMS: This was proved, may

BRIGADIER QUILLIAM: This was proved, may it

1 please your Honor, by Mr. Ballantine, page 10,763,
2 where he dealt with all the freezing orders.

3 MR. LOGAN: Well, this evidence certainly,
4 your Honor, doesn't show that this agreement was
5 terminated in accordance with the terms of it and
6 was to continue for a further period of time, which
7 was subsequently disregarded by the United Kingdom.
8 In other words, there is no evidence in the case that
9 the notice of termination was given under the agree-
10 ments themselves, that the agreements were to con-
11 tinue in force for a further period, and that is
12 what we are trying to show by this, and that that
13 was subsequently abrogated by the cutting off of
14 trade between these countries and Japan.

15 THE PRESIDENT: But, why have it proved to
16 this extent? It is not denied at this point. I
17 think we ought to reject this as unnecessary.

18 MR. LOGAN: There is no evidence in the
19 case, your Honor.

20 THE PRESIDENT: You have an admission by
21 the prosecution.

22 MR. LOGAN: Will the prosecution admit that,
23 contrary to the terms of these agreements, when the
24 notice was given, that they were to be terminated at
25 the further period of one year and a further period

1 of six months, depending on which agreement they were
2 referring to, but not --

3 BRIGADIER QUILLIAM: May it please your Honor,
4 we say that the whole of this evidence has been proved
5 in the prosecution's case, that this is unnecessary.
6 We certainly do not admit that there was any breach.

7 THE PRESIDENT: Nor does this document estab-
8 lish one.

9 The objection is upheld, and the document is
10 rejected.

11 MR. LOGAN: If the Tribunal please, I would
12 just like to refer back to this a minute, with your
13 permission. The prosecution objects to a document
14 we offer and makes a statement to the Court that it is
15 already proven. We ask for a stipulation as to the
16 facts we are trying to prove by this document, and
17 they refuse us, which definitely shows that it is a
18 tacit admission on their part that the facts we are
19 trying to prove have not been introduced in the case
20 so far.

21 THE PRESIDENT: You are fully protected, Mr.
22 Logan. If, in fact, these facts have not been proved,
23 they are now admitted by the prosecution.

24 MR. LOGAN: Thank you, your Honor.

25 Defense document 1708 is now offered in

1 evidence. This is a statement issued by the British
2 Exchequer, dated July 26, 1941, prohibiting certain
3 transactions of banks with Japan.

4 THE PRESIDENT: Brigadier Quilliam.

5 BRIGADIER QUILLIAM: If it please the Tri-
6 bunal, this also was proved by Mr. Ballantine.

7 THE PRESIDENT: If it is not, we will take
8 it as admitted.

9 The document is rejected.

10 MR. LOGAN: We offer in evidence defense
11 document 1707, which is a telegram from the Japanese
12 Charge D'Affaires in England to Foreign Minister
13 TOYODA, dated July 26, 1941, informing him of the
14 British Government's freezing order against Japanese
15 funds.

16 THE PRESIDENT: Admitted tentatively, is it?
17 Is that a tentative one?

18 MR. LOGAN: No.

19 THE PRESIDENT: Admitted on the usual terms.

20 BRIGADIER QUILLIAM: The facts, the essential
21 facts in this document, Sir, have already been proved
22 by Mr. Ballantine.

23 MR. LOGAN: I don't recall that it is in there.
24 The Brigadier may be correct, your Honor, I don't know.

25 THE PRESIDENT: Well, we will give the same

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1 decision as in the last document.

2 It is rejected.

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R 1 MR. LOGAN: The next document, 1706, falls
C 2 in the same category. Will we have the same ruling
J 3 on it?

4 THE PRESIDENT: We would like to know what
5 it is, though. We want the transcript to show what
6 it is.

MR. LOGAN: Defense document 1706 is now offered in evidence. This is an order from the British Treasury to the Yokohama Specie Bank, notifying it of the freezing orders.

11 THE PRESIDENT: It is rejected.

12 MR. LOGAN: We offer in evidence defense
13 document 1500-S-4. This is an excerpt from the testi-
14 mony of Admiral Harold R. Stark. It is offered in
15 evidence as showing the American High Command concept
16 of the effect of the July 25, 1941 oil embargo on
17 Japan. It also contains a letter dated July 22, 1941,
18 from Admiral Stark to Mr. Welles, of the United States
19 State Department, relating to embargoes, together
20 with a study on the embargo problem prepared by Ad-
21 miral Turner for the Chief of Naval Operations.

THE PRESIDENT: Brigadier William.

24 BRIGADIER QUILLIAM: May it please the
25 Tribunal, we object to this document on the ground
that it is irrelevant and also that it has no proba-

1 tive value. It merely gives the opinions of cer-
2 tain United States offices as to the possible conse-
3 quences of the embargo policy being followed by the
4 United States. As may well be expected, there was a
5 difference of opinion as to whether a strong line or
6 a weak line should be taken. This document shows
7 that at least one senior American naval officer thought
8 that a strong line might be more successful than a
9 weak one in avoiding war. The document carries the
10 matter no further than that, and we suggest that the
11 Tribunal will not be interested in the opinion even
12 of a senior United States Naval officer on this subject.
13

14 THE PRESIDENT: Other American admirals may
15 have had a different opinion. We don't know.
16

17 MR. LOGAN: If the Tribunal please, this
18 is the testimony of Admiral Stark before the Con-
19 gressional investigation on the Pearl Harbor attack.
20 In it he was question about a conference he had at
21 the White House with President Roosevelt, the Secretary
22 of State, and Under-Secretary of State Mr. Wells, in
23 which not only Admiral Stark's opinion is set forth --
24 and he at that time was Chief of Naval Operations, the
25 highest position in the Navy, I believe -- it not only
sets forth his opinion but statements made by the
President and the Secretary of State.

1 It shows that the highest-ranking govern-
2 mental officials both of the State and Navy Depart-
3 ment knew the effect of the embargoes and freezing
4 orders, and that the State Department knew and agreed
5 with the military that these sanctions would bring
6 war on ultimately -- in other words, that the govern-
7 ment knew that these sanctions would provoke Japan
8 into an act of war, which has a direct bearing and
9 is material and relevant to the point we are trying
10 to prove in this case.

11 THE PRESIDENT: I can only repeat that act-
12 ing under provocation and acting in self-defense are
13 two distinct matters.

14 We are going to make this the subject of a
15 tentative admission. It is admitted tentatively.

16 CLERK OF THE COURT: The publication en-
17 titled "Pearl Harbor Attack, Part 5" will receive
18 exhibit number 2833 for identification only, and the
19 excerpt therefrom, bearing defense document number
20 1500-S-4, will receive exhibit No. 2833-A.

21 (Whereupon, the document above referred
22 to was marked defense exhibit 2833 for identifi-
23 cation; the excerpt therefrom being marked
24 defense exhibit 2833-A and received in evidence.)

25 MR. LOGAN: I shall read exhibit 2833-A
that has been tentatively admitted.

"Excerpt from Testimony of Admiral Harold R. Stark - Friday, January 4, 1946.

"Senator Ferguson: About the oil question and your attitude toward Japan. Did you not testify before the Navy court, on page 43, question 117, that after the imposition of economic sanctions upon Japan in the summer of 1941 you stated that Japan would go somewhere and take it (oil), and that if you were a Jap you would?

"Admiral Stark: I think that is correct. You are reading from the record, and I stand back of it. I stated it, and I stated in the State Department, as I recall, that if a complete shut-down was made on the Japanese, throttling her commercial life and her internal life and her essential normal peace life by stopping her from getting oil, that the natural thing for a Jap was to say, 'Well, I will go down and take it.'

Senator Ferguson: Did you attend the White House conference on the 24th of July 1941 with President Roosevelt and the Secretary of State, or Under Secretary Mr. Welles, where it was indicated to the Japanese Ambassador that the British, the Dutch, and American Governments were about to impose upon Japan

1 an oil embargo? That is in Foreign Relations, volume
2, on page 527, to refresh your memory.

3 "Admiral Stark: Well, I recall a good many
4 discussions about economic sanctions. I do not
5 recall that particular one. I remember very clearly
6 one meeting in the White House about that period
7 with the Japanese Ambassador, and I think it was Mr.
8 Welles and not Mr. Hull, in which we were struggling
9 to keep the peace in the Pacific, when NOMURA stated
10 it was necessary for them to secure themselves regard-
11 ing certain products in Indo-china, food, rice, and
12 the President proposed that, so far as his position
13 could have influenced he would endeavor to see that
14 they got food and their minimum needs, provided they
15 would stop their aggression.

16 "Senator Ferguson: Well, I got this quote
17 from the official record, and I wondered whether that
18 would refresh your memory.

19 "Admiral Stark: I do not recall that par-
20 ticular meaning to which you refer.

21 "Senator Ferguson: Do you remember on that
22 same occasion that the President did tell Japan, that
23 is, through the Ambassador, that should she then
24 attack to get oil by force the Dutch and British
25 would go to war against her? That is on page 527.

1 "Admiral Stark: That the President said
2 'if" -- What, sir?

3 "Senator Ferguson: That on that occasion
4 he said to the Japanese Ambassador should she attack
5 to get oil by force the Dutch and British would go
6 to war against her?

7 "Admiral Stark: I do not recall that par-
8 ticular statement.

9 "Senator Ferguson: On page 527.

10 "Admiral Stark: I do not recall that par-
11 ticularly.

12 "Mr. Mitchell: Senator, I have here papers
13 that we very recently dug out of the State Department
14 files, a letter of July 22, 1941, by Admiral Stark to
15 Mr. Welles, about the possible effect of an embargo,
16 and attached to it, on July 19, 1941, is Admiral
17 Turner's analysis of the embargo problem which was
18 sent to Mr. Welles, with the notation at the bottom
19 'I concur in general. Is this the kind of picture you
20 wanted? HRS.'

22 "Senator Ferguson: That will help. I will
23 quote from page 527 of Foreign Relations:

24 "'The President said that if Japan attempted
25 to seize oil supplies by force in the Netherlands
 East Indies, the Dutch would, without the shadow of

1 a doubt, resist, the British would immediately come
2 to their assistance, war would then result between
3 Japan, the British and the Dutch, and in view of our
4 own policy of assisting Great Britain, an exceedingly
5 serious situation would immediately result.'

6 "Do you remember that? I do not think you
7 and I have the same volume.

8 "Admiral Stark: I think we have.

9 "Senator Ferguson: It is at the bottom of
10 page 527.

11 "Admiral Stark: I do not recall it. But it
12 undoubtedly took place, being in here.

13 "Senator Ferguson: Now, do you know whether
14 or not shortly after that, in fact about 48 hours,
15 the embargo did go on?

16 "Admiral Stark: The embargo went on, as I
17 recall, on the 26th. This is the 24th. Yes, sir.

18 "Senator Ferguson: Now, referring to page
19 531 of that same book, that is, the conversation
20 between Colonel IWAKURO and Mr. WIKAWA and Mr. Ballan-
21 tine, were you informed on that day that the Japanese
22 military attache told Mr. Ballantine that Japan would
23 have no alternative sooner or later but to go to Malaya
24 and the Dutch East Indies for oil and other material?

1 "Admiral Stark: I do not recall that, but
2 it is in line with the thought I had as to what to do.

3 "Senator Ferguson: Now, Admiral, taking the
4 high-ranking officials in our Government, you said
5 that you thought sanctions such as this oil, and so
6 forth, would bring war on ultimately. Who else agreed
7 with you?

8 "Admiral Stark: Well, according to Peace
9 and War, which I read into my statement, I think the
10 State Department also agreed with it.

11 "Senator Ferguson: Well, did General Mar-
12 shall?

13 "Admiral Stark: Well, I would rather you
14 asked him. My recollection is there was no differ-
15 ence of opinion amongst us with regard to that, and
16 this Peace and War states:

17 "'Practically all realistic authorities have
18 been agreed that imposition of substantial economic
19 sanctions or embargoes against any strong country,
20 unless that imposition be backed by a show of superior
21 force, involves serious risk of war. The President
22 and heads of the Army and Navy and Department of State
23 were in constant consultation through this period
24 regarding all the aspects of the diplomatic and mili-
25 tary situation.'

"(The matter referred to follows:)

"Navy Department

"Office of the Chief of Naval Operations,

"Washington, 22 July 1941.

5 "Dear Mr. Welles: The latter part of last
6 week the President asked my reaction to an embargo on
7 a number of commodities to Japan. I expressed the
8 same thought to him which I have expressed to you and
9 to Mr. Hull regarding oil, but as to the subject in
10 general I would be glad to have War Plans Division
11 make a quick study. This study was finished yesterday.
12 I sent it to the President and told his aide I should
13 also like to send you a copy. The President expressed
14 himself as pleased with it and asked me to send a copy
15 to Mr. Hull, which I have done, and to talk it over
16 with you.

"Will you send for me at your convenience?

"Sincerely, H. R. STARK

30 "Honorable SUMNER WELLS

21 "Under Secretary of State

22 "State Department, Washington, D. C.

23 "July 19, 1941.

SECRET

25 "From: The Director, War Plans Division.

1 "To: The Chief of Naval Operations.

2 "Subject: Study of the effect of an embargo of trade
3 between the United States and Japan.

4 "Enclosures:

5 (A) Copy of the following tables:

6 (1) Exports to Japan--December 1940 through May
7 1941.

8 (2) Exports from Hawaii to Japan--December 1940
9 through May 1941.

10 (3) Exports from the Philippines to Japan--Decem-
11 ber 1940 through May 1941.

12 (B) Copy of the following tables:

13 (1) Imports from Japan--December 1940 through
14 May 1941.

15 (2) Imports from Japan to Hawaii--December 1940
16 through May 1941.

17 1. Purpose.-- The purpose of this study is to
18 determine the effect that would be produced by the
19 enforcement of an absolute or partial embargo on trade
20 between the United States and Japan. Detailed con-
21 sideration has not here been given to the trade between
22 the Philippines and Japan.

23 2. United States exports to Japan in 1940.--
24 United States exports to Japan in 1940 were valued at
25 \$227,000,000, a decline of \$5,000,000 from 1939, and

1 of \$13,000,000 from 1938. During the first ten months
2 of 1940 the value of exports advanced, due to higher
3 commodity prices and Japan's increased demand for
4 American products as a result of enforced curtailment
5 of her purchases from Europe. However, sharp re-
6 cessions in export trade during the last two months
7 of 1940, occasioned in part by the application of
8 export license control to certain products, wiped out
9 earlier gains. In November and December, particularly
10 sharp declines were registered in machine tools,
11 ferro-alloys, and refined copper, while scrap-iron
12 exports were practically negligible."

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1 "3. Present trends of exports -- (a) United
2 States exports to Japan during the first five months
3 of 1941 were valued at \$47,000,000 as compared with
4 \$91,500,000 for the same period of 1940. During the
5 current year trade has declined steadily from \$11,336,000
6 in January to \$6,594,000 in May.

"(b) The principal factor affecting exports to Japan during the past year has been the progressively restrictive effect of export control measures. The virtual disappearance from the trade in 1941 of iron and steel products and of metal-working machinery, which together accounted for shipments valued at \$67,000,000 in 1940, was the direct result of an embargo on shipments of these commodities to Japan. The sharp drop in Japanese purchases of raw cotton during 1940, however, was the result of other influences.

18 "(c) (1) During 1939 Japan purchased American
19 raw cotton valued to \$42,500,000, while in 1940 her
20 purchases amounted to only \$29,500,000. This drop
21 was due to the large quantity of piece goods then
22 on hand in Japan, the relatively high price of Amer-
23 ican cotton compared to that of India and of Latin
24 America, and shipping requirements for items needed
25 more urgently. In November 1940 American exports of

1 raw cotton were valued at only \$157,000; they have
2 risen steadily since then, reaching \$881,000 in May
3 1941.

4 "(2) Declines in luxury items, including
5 automobiles, are due to a decline in purchasing power
6 in Japan and to Japanese action in placing restric-
7 tions on the importation and use of these items,
8 rather than to United States export restrictions.

9 "(d) Petroleum exports during 1940 increased
10 by \$9,300,000 or 21%, over the figure for 1939.
11 Exports for the first five months of 1941 were valued
12 at \$27,200,000, or 50% of the total for the entire
13 year 1940. This is contrary to the general trend of
14 exports.

15 "(e) Sharp reductions in available ship tonnage
16 has contributed to the fall in exports. Due to with-
17 drawals from trade of additional vessels, future ex-
18 ports to Japan will be even less, regardless of
19 export restrictions.

20 "4. Imports from Japan. -- (a) Imports from
21 Japan to the United States during 1939 were \$161,000,000
22 and in 1940 \$158,000,000. For the first four months
23 of 1941, imports amounted to \$40,000,000, a decline
24 of only \$8,200,000 from the same period in 1940;
25

1 this compares with a decline in our exports of
2 \$37,300,000. Our exports to Japan exceeded our im-
3 ports from that country during the period of 1 January
4 to 30 April 1941, by only about \$500,000, much less
5 than usual. One result of the system of export con-
6 trol is thus seen to be the arrival at a balance be-
7 tween our exports and imports. This fact permits Japan
8 to pay in kind for all goods sent to her from this
9 country, and a continuation of the present trend may
10 soon make her our creditor.
11

12 "(b) The following table shows items of imports
13 valued at more than \$1,000,000 during 1940:" I sha'nt
14 read these figures, but will read the total of \$120,
15 356,000, and just the one item of Raw Silk, \$105,311,000.
16 "These eight items account for 76% of our imports and
17 indicate where curtailment might start if it is de-
18 cided to take steps to reduce Japan's markets.
19

20 "5. Effect of further restrictions on
21 exports. -- (a) The most important fields for exer-
22 cising further restrictions on exports are petroleum
23 products and raw cotton, which accounted for 74% and
24 13% respectively, of the trade in May, 1941.
25

26 "(b) It is generally believed that shutting off
27 the American supply of petroleum will lead promptly
28 to an invasion of the Netherlands East Indies. While
29

1 probable, this is not necessarily a sure immediate
2 result. Japan doubtless knows that wells and machin-
3 ery probably would be destroyed. If then engaged in
4 war in Siberia, the necessary force for southward
5 adventures might not be immediately available. Fur-
6 thermore, Japan has oil stocks for about eighteen
7 months war operations. Export restrictions of oil
8 by the United States should be accompanied by similar
9 restrictions by the British and Dutch.

10 "(c) Restrictions on the export of raw cotton
11 would probably be serious for Japan only if India,
12 Peru, and Brazil should apply the same restrictions.
13 Cotton stocks in Japan are believed to be rather low
14 at present.

15 "(d) It will, of course, be recognized that an
16 embargo on exports will automatically stop imports
17 from Japan.

18 "(e) An embargo on exports will have an immed-
19 iate severe psychological reaction in Japan against
20 the United States. It is almost certain to intensify
21 the determination of those now in power to continue
22 their present course. Furthermore, it seems certain
23 that, if Japan should then take military measures
24 against the British and Dutch, she would also include
25 military action against the Philippines, which would

1 immediately involve us in a Pacific war. Whether or
2 not such action will be taken immediately will doubt-
3 less depend on Japan's situation at that time with
4 respect to Siberia.

5 "(f) Additional export restrictions would hamper
6 Japan's war effort, but not to a very large extent
7 since present restrictions are accomplishing the same
8 result, except with regard to oil, raw cotton and wood
9 pulp. Thus, the economic weapon against Japan has
10 largely been lost, and the effect of complete embargo
11 would not be very great from a practical standpoint.

12 "6. Effect on the United States of a loss
13 of imports from Japan. -- (a) As previously mentioned,
14 exports and imports are approaching a balance. If
15 exports cease, imports will also cease, as Japan would
16 not have the means to continue her purchases. The
17 same effect would be produced if we stopped buying
18 from Japan, but attempted to continue our exports.

19 ((b) In 1940, raw silk formed 69% of United States
20 imports from Japan. Silk is processed here. It is
21 used in industry and for certain munitions, particu-
22 larly powderbags. The armed services have large stocks
23 of raw silk, and could get along without further im-
24 ports, though silk substitutes are not entirely satis-
25 factory. Doubtless industry could manage without silk,

1 although the lack of it would cause a considerable
2 dislocation of labor now employed in the industry.
3 The effect of stopping the purchase of silk would
4 also have an adverse psychological reaction on the
5 part of Japan, though possibly not so great as would
6 an export embargo.

7 "(c) Stopping other imports from Japan would
8 not cause any great hardship in the United States,
9 although the general effect on industry would be ad-
10 verse.

11 "7. Conclusions. -- (a) Present export
12 restrictions, plus reduction of available ship-tonnage
13 for use in Japanese trade have greatly curtailed both
14 exports and imports.

15 "(b) The effect of an embargo would hamper future
16 Japanese war effort, though not immediately, and not
17 decisively.

18 "(c) An embargo would probably result in a fairly
19 early attack by Japan on Malaya and the Netherlands
20 East Indies, and possibly would involve the United
21 States in early war in the Pacific. If war in the
22 Pacific is to be accepted by the United States, action
23 leading up to it should, if practicable, be postponed
24 until Japan is engaged in a war in Siberia. It may
25 well be that Japan has decided against an early attack

1 on the British and Dutch, but has decided to occupy
2 Indo-China and to strengthen her position there, also
3 to attack the Russians in Siberia. Should this prove
4 to be the case, it seems probable that the United
5 States could engage in war in the Atlantic and that
6 Japan would not intervene for the time being, even
7 against the British.

8 "8. Recommendation. -- That trade with Japan
9 be not embargoed at this time. R. K. TURNER."
10 "(Written in longhand:) I concur in general. Is
11 this the kind of picture you wanted. H.R.S."

12 We offer in evidence Defense Document 1400-J-3,
13 being a memorandum by Ambassador Grew, dated July 27,
14 1941, of a conversation he had with the Japanese
15 Minister.

16 THE PRESIDENT: Mr. Comyns Carr.

17 MR. COMYNS CARR: May it please the Tribunal,
18 this document is entirely useless. It merely informed
19 Mr. Grew that the Minister did not know what his
20 government was going to do about this Order

22 MR. LOGAN: It also sets forth the statement
23 by the Minister to Ambassador Grew, pointing out that
24 resentment was felt in Japan on the freezing of Jap-
25 anese assets.

1 THE PRESIDENT: It is not material. The
2 objection is upheld and the document is rejected.

3 MR. LOGAN: We offer in evidence Defense
4 Document No. 1712, which is the official note from
5 the British Ambassador to Foreign Minister TOYODA
6 dated July 29, 1941, abrogating the Anglo-Japanese
7 commercial treaty and its supplements.

8 MR. LOGAN: I understand from the prosecut-
9 ion that this is also covered in Ballantine's testi-
10 mony, and I withdraw it on that understanding.

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SHIINA

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1 MR. LOGAN: We now offer in evidence defense
2 document 1732A and 1732B which are telegrams to
3 Foreign Minister TOYODA from Consul General ISHIZAWA,
4 dated July 30, 1941, with respect to freezing orders
5 of the Netherlands East Indies.

6 BRIGADIER QUILLIAM: May it please the Tri-
7 bunal, this we are sure is covered by prosecution
8 evidence, but some of the later documents may not be
9 specifically covered. What I wish to suggest is that
10 Mr. Logan should withhold all these documents and,
11 on Monday morning, submit one short admission which
12 would cover the lot.

MR. LOGAN: We will get together on that, your Honor, to save time.

THE PRESIDENT: 1732A and B are withdrawn.

MR. LOGAN: I now call as a witness SHIINA,
Etsusaburo.

ET SUSA BUR O SHIINA, called as a witness on behalf of the defense, being first duly sworn, testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. LOGAN:

9 What is your name and address?

1 A My name is SHIIINA, Etsusaburo. My address
2 is Tokyo City, Shibuya Ward, Hanezawa 14.

3 Q Would you examine defense document 1980,
4 which is now being handed to you, and advise us if
5 that is your affidavit?

6 (Whereupon, a document was handed
7 to the witness.)

8 A Yes, this is the affidavit, and this is
9 the affidavit I wrote without mistake.

10 Q Are the statements contained therein accu-
11 rate and true?

12 A They are true.

13 MR. LOGAN: I offer in evidence defense
14 document 1980.

15 THE PRESIDENT: Admitted on the usual
16 terms.

17 CLERK OF THE COURT: Defense document 1980
18 will receive exhibit No. 2834.

19 (Whereupon, the document above re-
20 ferred to was marked defense exhibit 2834
21 and received in evidence.)

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SHIINA

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MR. LOGAN: I will now read exhibit 2834,
the deposition of SHIINA, Etsusaburo:

"I was born in January 1898. After I graduated from the Law Department of the Tokyo Imperial University in 1923, I joined the Agriculture and Commerce Ministry. When the Ministry was divided into two Departments, namely, the Department of Commerce and Industry and the Department of Agriculture and Forestry, I served in the former Ministry. From October 1933 to March 1939, I assumed an office, as an official of Manchoukuo, and was responsible for the execution of various policies chiefly with regard to the mining industry. In April 1939 I reassumed the office in the Commerce and Industry Ministry. Since then I filled various posts successively as the chief of the Fifth Section of the Provisional Material Co-ordination Bureau, a collateral bureau of the Ministry of Commerce and Industry from April 1939 to June of the same year and as the chief of the General Affairs Section of the General Bureau about three and half months since July of the same year; as the Director of the General Bureau about two years since October of the same year, and then I was appointed the Vice-Minister of Commerce and Industry in October 1941.

"With reference to the demand and supply con-

SHIIINA

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dition of raw rubber of this country, prior to the out-
1 break of the Pacific War, as I was connected with the
2 execution of policies pertaining to this particular in-
3 dustry as the head of the Fifth Section of the Provi-
4 tional Material Coordination Bureau as follows on my
5 own responsibility.

6 "The demand for raw rubber in peace time in
7 Japan was, according to the research made sometime about
8 1937, said to be about 60,000 tons. The ratio of the
9 demand between the civil and the military (direct need
10 by the military) was roughly 5 to 1 and out of the pri-
11 vate demand about one third was assigned for re-export
12 to the foreign countries as a raw material for the ex-
13 port goods or an export to Manchuria.
14

15 "On account of, however, the sudden run of an
16 acute course of decline of the foreign exchange con-
17 dition of Japan after the year of the outbreak of the
18 China Affairs, and the Japanese Government's policy to
19 strengthen the restriction over every imported goods
20 one after another, the import of the raw rubber, there-
21 fore, also became difficult.

22 "However, as for that demanded by the military,
23 it was under such circumstances that the projected
24 quantity by the military should preferentially be se-
25 cured since the China Affairs was in progress. So all

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1 the shortage in supply had to be supplemented by a
2 restriction on the civil demand. The actual enforced
3 rate of the constriction in 1938 and in 1939 was about
4 20 per cent of the private demand in peace time, and
5 in 1940 it became as much as 50 per cent of the vol-
6 umne demanded by the people. Thus the ratio between
7 the civil and military demands became 3 versus 1.

8 "Facing such situation, the Japanese govern-
9 ment had naturally to exert every possible effort so
10 as to economize the rubber and execute such pretty
11 strong policies as the prohibition of use of material
12 in certain kinds, and the suspension of the management
13 for those enterprises whose business efficiency is
14 not high, and so forth.

15 "In spite of the foregoing, the future pros-
16 pect was still exceedingly dark and there were some
17 among the government authorities concerned who were
18 fearful lest a serious breakdown might be resulted
19 from the cause of demand and supply of rubber alone,
20 should the condition be left untouched. I recall that
21 some urgent measure was frequently called for at the
22 government meeting.

23 "Such sad plight was relieved for the time
24 being by the import of a great deal of raw rubber from
25 Thailand and French Indo-China from the summer to the

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winter 1941 where we had very little import from these countries heretofore. That is to say, we had about 20,000 tons each, about 40,000 tons altogether, imported from Thailand and French Indo-China, and adding those imported from other countries, it was totalled about more than 70,000 tons. The increase thus made in the import from Thailand which was used to be 2,000 to 3,000 tons annually, was due to the financial agreement with that country, and the import of 20,000 tons from French Indo-China which had none hitherto was because of the Japan-French Indo-China Treaty, concluded in May 1941. I am aware of the fact, however, that the imports of raw rubber based on these two arrangements accompanied no small disadvantage in price and some other points, and required exertion on the part of the financial authorities in making these arrangements.

"On this 4th day of August 1947."

Signed: "SHIINA Etsusaburo".

You may cross-examine.

SHIINA

DIRECT

25,358

BRIGADIER QUILLIAM: May it please the Tribunal, we do not desire to cross-examine.

MR. LOGAN: May the witness be released on
the usual terms?

THE PRESIDENT: He is released accordingly.

(Whereupon, the witness was excused.)

9 MR. LOGAN: July 30, 1941 the Chief of the
10 Division of Far Eastern Affairs issued a memorandum
11 with respect to conversation with Mr. IGUCHI of the
12 Japanese Embassy in which the question of treatment
13 of cargo aboard Japanese vessels was discussed. This
14 is set forth in defense document 1400-P-5 which is
15 now offered in evidence.

16 BRIGADIER QUILLIAM: May it please the Tri-
17 bunal, this document contains some unimportant infor-
18 mation with regard to the embargo on shipping. The
19 fact of the embargo on shipping has already been
20 given in evidence today; and these discussions with
21 regard to a particular question or questions that
22 arose carries the matter, we submit, no further.

23 MR. LOGAN: This refers to shipping al-
24 ready on Japanese ships a few days after the impo-
25 sition of the freezing orders.

1 THE PRESIDENT: It doesn't really help,
2 Mr. Logan, does it?

3 MR. LOGAN: It is not too important. I
4 will withdraw it. I am omitting defense document
5 1482 at this time. It will be offered next week.
6 I withdraw document 1400-Q-5.

7 Defense document 206-E-94 being an excerpt
8 from former United States Ambassador Grew's Diary,
9 entitled "Ten Years in Japan," is now offered in
10 evidence. This document sets forth conversation
11 between Mr. Grew and Mr. TERASAKI about a meeting
12 between the responsible heads of the American and
13 Japanese Governments, the sending of tankers to the
14 Soviet Union by the United States and the suspension
15 of the order freezing Japanese assets and other
16 matters.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 206-
19 E-94 will receive exhibit No. 2835.

20 (Whereupon, the document above re-
21 ferred to was marked defense exhibit No.
22 2835 and received in evidence.)

23 MR. LOGAN: It is another long document.
24 Can we start reading it after the recess?

25 THE PRESIDENT: We will adjourn now for

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fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1510, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Logan.

MR. LOGAN: I shall now read exhibit 2835:
"The Oil Embargo and Financial Freezing Have Their Effects on Japan. August 29, 1941.

"Mr. TERASAKI, the Director of the American Bureau, telephoned me this afternoon shortly before three o'clock to tell me that although the Foreign Minister had asked me to call upon him at three o'clock this afternoon, a recent development had made the Minister fear the publicity that might follow such a visit. He therefore requested Mr. TERASAKI to deliver the Foreign Minister's message to me on his behalf. Mr. TERASAKI accordingly called at the Embassy and on behalf of the Minister conveyed to me for my information the text of the communication from the Japanese Prime Minister to the President which had been delivered by Admiral NOMURA in Washington on August 28.

"Mr. TERASAKI's visit was substituted for my

1 call on the Foreign Minister because the Japanese
2 press had learned from Washington that a message from
3 the Japanese Prime Minister had been delivered to the
4 President and the news had reached Japan in such a
5 form that it was impossible for the Government to
6 conceal from the Japanese public the fact of such a
7 message.

8 "Mr. TERASAKI, speaking on behalf of the
9 Foreign Minister, dwelt on the unfortunate effect of
10 the publicity which had been given to this matter in
11 Washington.*"

12 A footnote says: "It was Admiral NOMURA
13 himself who announced to the American press on
14 emerging from the White House that he had just delivered
15 to the President a message from the Prime Minister
16 of Japan."

17 (Continuing): "Although the reports had not
18 disclosed the contents of the Prime Minister's message
19 to the President, they did reveal to the Japanese public
20 and to the pro-Axis and extremist elements that Prince
21 KONOYE had taken the initiative in what was obviously
22 a conciliatory move at a time when indignation was
23 high in Japan as a result of the progressive steps
24 recently taken by the American Government. These steps
25 included the initial order freezing Japanese assets in

1 the United States, the announcement that American
2 tankers bearing oil to the Soviet Union had departed
3 from Californian ports, and the decision to send a
4 military mission headed by General Magruder to Chiang
5 Kai-shek. Mr. TERASAKI pointed out that the publicity
6 given to the Prime Minister's message is consequently
7 of direct advantage to the extremists and pro-Axis
8 elements in this country. It has not only rendered
9 further moves in the direction of conciliation very
10 difficult but has in addition immeasurably augmented
11 the possibility of an attempt on the life of Prince
12 KONOYE. He added that the Chief of Police this after-
13 noon had indicated the increased risk to the Prime
14 Minister's life.

15 "Mr. TERASAKI conveyed an appeal to me from
16 Admiral TOYODA that I ask my Government to take the
17 following three steps. Unless these are taken, the
18 Foreign Minister feared that Prince KONOYE would meet
19 with serious obstacles in his efforts to bring about
20 an understanding between the United States and Japan:

21 "(1) The meeting between the two responsible
22 heads of the American and Japanese Governments should
23 take place without delay. Delay would afford those
24 elements who oppose any attempt to conciliate the
25 United States an opportunity to organize their adherents

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2 tankers bearing oil to the Soviet Union had departed
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13 noon had indicated the increased risk to the Prime
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19 with serious obstacles in his efforts to bring about
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22 "(1) The meeting between the two responsible
23 heads of the American and Japanese Governments should
24 take place without delay. Delay would afford those
25 elements who oppose any attempt to conciliate the
United States an opportunity to organize their adherents

1 and to spread the idea to the Japanese public that
2 Prince KONOYE is yielding to American pressure and,
3 in seeking to reach an understanding with the United
4 States in the teeth of what is publicly regarded as
5 provocative American measures, is exposing Japan to
6 humiliation.

7 "(2) The United States Government should
8 postpone the sending of tankers to the Soviet Union at
9 least pending the outcome of the proposed meeting be-
10 tween the President and the Japanese Prime Minister.
11 Mr. TERASAKI told me that the Foreign Minister felt
12 that the dangerous temper of public opinion on the
13 question of the tankers could not be exaggerated. He
14 added in this connection that according to information
15 reaching Japanese authorities five American tankers
16 destined for Vladivostok have already passed through
17 Tsugaru or Soya Straits.

18 "(3) The American Government, pending the
19 proposed meeting between the heads of the two Governments,
20 should suspend the order freezing Japanese assets in
21 the United States.

22 "Mr. TERASAKI, again speaking for the Minister,
23 emphasized to me that the Japanese Government has dealt
24 in complete frankness with the American Government and
25 has assured us that upon the settlement of the China

1 Incident Japanese troops at present in French Indo-
2 China would be withdrawn; that the Japanese troops in
3 Indo-China would make no further move in that area; and
4 that Japan would observe the treaty of neutrality with
5 the Soviet Union so long as that country adhered
6 equally to the letter and spirit of the same treaty.
7 He explained that these were the maximum assurances
8 and commitments which the Japanese Government was in
9 a position to assume at the present time. Since the
10 Japanese Government has gone the limit in giving these
11 assurances, the Foreign Minister believes that the
12 American Government for its part should make a maximum
13 effort, along the lines of the three points outlined
14 above, in order to assist the Prime Minister in the
15 course which he is pursuing, a course which is now
16 fraught with extreme difficulties and dangers as a
17 result of the Washington publicity.
18

19 "Mr. TERASAKI told me that the Foreign
20 Minister was appealing to me in an endeavor to have
21 the situation confronting the Prime Minister fully
22 explained to the President and the Secretary and to
23 request that the United States Government approach the
24 suggested concessions not from a legalistic but from a
25 psychological point of view.

"When Mr. TERASAKI concluded the foregoing

outline I acquainted him first of all with the substance of the first section of the Department's telegram of August 28, which had just been received, setting forth the Secretary's views upon the objections raised by the Japanese Government to the shipment of oil to the Soviet Union. I took occasion to emphasize the logical and compelling force of the position adopted by the Secretary on this matter. In order that there might be no misunderstanding in regard to the accuracy of the Japanese Ambassador's reports of his recent conversations in Washington, I communicated orally to Mr. TERASAKI the substance of the Department's telegrams reporting these conversations.

"In touching on the question of the reciprocal freezing regulations now in force I emphasized once more to Mr. TERASAKI the disparity between the very liberal administration of the freezing regulations in the United States in respect to Japanese nationals and the exacting and harsh treatment meted out to American citizens and interests in Japan. Mr. TERASAKI in reply merely reiterated that the Foreign Minister's request had been that such questions be dealt with from the point of view of their psychological effect in Japan, since at this period of intense crisis in relations between our two countries the psychological

1 effect was an especially strong one. I then drew
2 Mr. TERASAKI's attention to the mounting anti-
3 American attitude of the Japanese press, to which
4 Mr. TERASAKI replied that he could tell me in
5 strictest confidence that certain members of the
6 Cabinet Information Board, which was charged with
7 matters relating to publicity, are distinctly pro-
8 Axis in their sentiments and that the Japanese
9 Government is encountering real difficulties in
10 handling this question.

11 "In discussing with Mr. TERASAKI the three
12 points, outlined above, raised by the Foreign
13 Minister, I left him under no illusion that the
14 United States Government would find it possible to
15 agree to either of the preposterous requests contained
16 in points (2) or (3) above."

17 Defense document 502 (Excerpt 58) is offered
18 in evidence. This document is taken from the book
19 entitled, "Behind the Japanese Mask," by the Right
20 Honorable Sir Richard Craigie with respect to the
21 food situation in Japan, trade and industry as it
22 existed in the summer and autumn of 1941.

23 THE PRESIDENT: Mr. Comyns Carr.

24 MR. COMYNS CARR: May it please the Tribunal,
25 in our submission this document is merely the late

1 Ambassador's opinions and a description of the state
2 of food supplies in the Embassy and, in our submission
3 adds nothing factual to the information already before
4 the Tribunal.

5 MR. LOGAN: This document, written by Right
6 Honorable Sir Richard Craigie who was here in Japan
7 at that time, shows the conditions in Japan as a result
8 of the effect of the embargoes. It is a statement of
9 facts from an impartial source and from a highly re-
10 sponsible person in the British government. It does
11 not only refer to food in the Embassy; it also refers
12 to food conditions in Japan proper. It also--

13 THE PRESIDENT: Was there any food embargo?
14 There was no food embargo, was there?

15 MR. LOGAN: The effect of it, your Honor,
16 affected the entire civilian life in Japan. It also
17 talks about trade and industry which was the subject
18 of the embargo.

19 THE PRESIDENT: By a majority the Court
20 upholds the objection and rejects the document.
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MR. LOGAN: We offer in evidence defense document 206-E-(95) which is an excerpt from Ambassador Grew's book entitled "Ten Years in Japan" regarding the conversations he had with Prince KONOYE in which the latter requested that his statements be transmitted personally to the President of the United States.

THE PRESIDENT: No objection. Admitted on the usual terms.

CLERK OF THE COURT: Defense document
206-E-(95) will receive exhibit No. 2836.

12 (Whereupon, the document above
13 referred to was given defense exhibit No.
14 2836 and admitted in evidence.)

15 MR. LOGAN: (Reading) "Dinner with Prince
16 KONOYE," exhibit 2836. "September 6, 1941.

17 "This evening the Prime Minister invited me
18 to dine at a private house of a friend. Only Mr.
19 Dooman and Mr. USHIBA, the Prime Minister's private
20 secretary, were also present. The conversation
21 lasted for three hours and we presented with entire
22 frankness the fundamental views of our two countries.
23 The Prime Minister requested that his statements be
24 transmitted personally to the President in the belief
25 that they might amplify and clarify the approach

through diplomatic channels which he had made in
1 Washington through Admiral NOMURA.

2 "Prince KONOYE, and consequently the Govern-
3 ment of Japan, conclusively and wholeheartedly agree
4 with the four principles enunciated by the Secretary
5 of State as a basis for the rehabilitation of rela-
6 tions between the United States and Japan."

7 Footnote "(1) Respect for the territorial
8 integrity and the sovereignty of each and all
9 nations; (2) Support of the principle of noninter-
10 ference in the internal affairs of other countries;
11 (3) Support of the principle of equality, including
12 equality of commercial opportunity; and (4) Non-
13 disturbance of the status quo in the Pacific except
14 as the status quo may be altered by peaceful means.
15

16 "Prince KONOYE recognizes that the respon-
17 sibility is his for the present regrettable state
18 of relations between our two countries but, with
19 appropriate modesty as to his personal capabilities,
20 he likewise recognizes that only he can cause the
21 desired rehabilitation to come about. In the event
22 of failure on his part, no succeeding Prime Minister,
23 at least during his own lifetime, could achieve the
24 results desired. Prince KONOYE is therefore
25 determined to spare no effort, despite all elements
and factors opposing him, to crown his present

endeavors with success.

1 "The Prime Minister hopes that as a result
2 of the commitments which the Japanese Government is
3 prepared to assume as communicated to me by Admiral
4 TOYODA, a rational basis has been established for a
5 meeting between the President and himself. The
6 Prime Minister, however, is cognizant of the fact
7 that certain points may need clarification and more
8 precise formulation, and he is confident that the
9 divergencies in views can be reconciled to our
10 mutual satisfaction, particularly by reason of the
11 favorable disposition on the part of Japanese naval
12 and military leaders who have not only subscribed
13 to his proposal but who will also be represented at
14 the suggested meeting. The Prime Minister stated
15 that both the Ministers of War and of the Navy have
16 given their full agreement to his proposals to the
17 United States.

18 "The reports which the Prime Minister has
19 received from the Japanese Ambassador concerning
20 the latter's conversations with the President and
21 the Secretary have led the Prime Minister to think
22 that the administration in Washington entertains
23 serious doubts as to the strength of the present
24 cabinet and that the administration is not certain

1 that in the event that the cabinet should adopt a
2 peaceful program, it could successfully resist the
3 attacks of opposing elements. Prince KONOYE told
4 me that from the inception of the informal talks in
5 Washington he had received the strongest con-
6 currence from the responsible chiefs of both the
7 Army and the Navy. Only today he had conferred
8 with the Minister of War, who had promised to send
9 a full general to accompany the Prime Minister to
10 the meeting with the President; the Minister of the
11 Navy had agreed that a full admiral should
12 accompany the Prime Minister. Prince KONOYE added
13 in confidence that he expected that the repre-
14 sentative of the Navy would probably be Admiral
15 YOSHIDA, a former Minister of the Navy. In addi-
16 tion the Premier would be accompanied by the Vice-
17 Chiefs of Staff of the Army and the Navy and other
18 high-ranking officers of the armed services who are
19 in entire accord with his aims. He admitted that
20 there are certain elements within the armed forces
21 who do not approve his policies, but he voiced the
22 conviction that since he had the full support of the
23 responsible chiefs of the Army and Navy it would be
24 possible for him to put down and control any
25 opposition which might develop among these elements.

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18 high-ranking officers of the armed services who are
19 in entire accord with his aims. He admitted that
20 there are certain elements within the armed forces
21 who do not approve his policies, but he voiced the
22 conviction that since he had the full support of the
23 responsible chiefs of the Army and Navy it would be
24 possible for him to put down and control any
25 opposition which might develop among these elements.

1 "Prince KONOYE repeatedly stressed the view
2 that time is of the essence. It might take half a
3 year to a year to work out all the details of the
4 complete settlement and since resentment is daily
5 mounting in Japan over the economic pressure being
6 exerted by other countries, he could not guarantee
7 to put into effect any such program of settlement
8 six months or a year from now. He does, however,
9 guarantee that at the present time he can carry with
10 him the Japanese people to the goal which he has
11 selected and that should difficulties be encountered
12 in working out the details of the commitments which
13 he may assume, these difficulties can be overcome
14 satisfactorily because of the determined intention
15 of his Government to see to it that its present
16 efforts are fully successful.

17 In the course of our discussion I outlined
18 in general terms the bitter lessons of the past to
19 our Government as the result of the failure of the
20 Japanese Government to honor the promises given to
21 me by former Japanese Ministers for Foreign Affairs
22 apparently in all sincerity, as a result of which
23 the Government of the United States had at long last
24 concluded that it must place its reliance on actions
25 and facts and not on Japanese promises or assurances.

1 The Prime Minister did not attempt to refute this
2 statement but stressed the fact that his Government
3 now wished to bring about a thoroughgoing recon-
4 struction of American-Japanese relations and he
5 assured me that any commitments which he would
6 undertake would bear no resemblance to the
7 'irresponsible' assurances which we had received in
8 the past and that such commitments if given would
9 be observed. The Prime Minister concluded his pre-
10 sentation of this point by giving me to understand
11 that given the will the way can be found.

12 "Prince KONOYE stated that should the
13 President desire to communicate any kind of sugges-
14 tion to him personally and confidentially he would
15 be glad to arrange subsequent secret meetings with
16 me, but he expressed the earnest hope that in view
17 of the present internal situation in Japan the pro-
18 jected meeting with the President could be arranged
19 with the least possible delay. Prince KONOYE feels
20 confident that all problems and questions at issue
21 can be disposed of to our mutual satisfaction during
22 the meeting with the President, and he ended our
23 conversation with the statement that he is determined
24 to bring to a successful conclusion the proposed re-
25 'construction of relations with the United States re-
gardless of cost or personal risk."

1 We offer in evidence defense document
2 200-E-99, which is an excerpt from the diary of former
3 United States Ambassador Grew entitled "Ten Years in
4 Japan," being the substance of a paraphrase of an
5 original text prepared by the Department of State
6 September 29, 1941.

7 THE PRESIDENT: Mr. Conyns Carr.

8 MR. CONYNS CARR: May it please the Tribunal,
9 in our submission this is merely a lengthy statement
10 of Ambassador Grew's opinions about the proposal that
11 there should be a personal meeting between Premier
12 KONOUE and the President. In our submission it adds
13 no fact which can be of the slightest assistance to
14 the Tribunal in determining the issues here.

15 MR. LOGAN: It is an official document, if
16 the Tribunal please, paraphrased, text prepared by
17 the Department of State and involves a very important
18 proposed meeting, and not only does it contain some
19 opinions of the Ambassador, but there are a great deal
20 of facts in it.

21 THE PRESIDENT: Well, it is still merely the
22 views of the Ambassador. It hasn't the imprimatur
23 of the Department of State.

24 MR. LOGAN: It is a paraphrase of an original
25 text prepared by the Department of State. It is a

1 very important meeting, the subject of this document,
2 and I think the Tribunal should receive it. It con-
3 tains no opinions upon which this Tribunal must make
4 a decision. It is no attempt to forswear any issues
5 here. Certainly, the Government of the United States
6 had to act on the advice of someone over here, and
7 this was the advice on which they acted.

8 THE PRESIDENT: It is only a paraphrase.

9 MR. LOGAN: That is right. We can't find
10 the complete document.

11 THE PRESIDENT: I notice the Ambassador
12 published this paraphrase in his book.

13 MR. LOGAN: That is right. And it should also
14 be noted that this paraphrase was prepared by the
15 Department of State. Of course, that doesn't exclude
16 the document, the mere fact that it is paraphrased,
17 because the prosecution has introduced paraphrases of
18 certain documents, too.

19 THE PRESIDENT: By a majority the Court over-
20 rules the objection and admits the document, but only
21 so far as it contains statements of fact.

22 CLERK OF THE COURT: Defense document
23 206-E-99 will receive exhibit No. 2837.

24 (Whereupon, the document above
25 referred to was marked defense exhibit

1 No. 2837 and received in evidence.)

2 MR. LOGAN: Defense document 206-E-99,
3 exhibit 2837, "The Ambassador in Japan Reports to the
4 Secretary of State (Substance) (Paraphrase of original
5 text prepared by Department of State) September 29, 1941.

6 "In regard to the preliminary conversations
7 taking place at Washington and Tokyo, the Ambassador
8 points out that a review of telegraphic correspondence
9 on this subject since last spring reveals the Japanese
10 Government's efforts, increasing steadily and intensi-
11 fied lately, to arrange a meeting between Prince KONOYE
12 and President Roosevelt without further delay. While
13 admitting his role to be chiefly that of a transmit-
14 ting agent in these conversations, the Ambassador
15 naturally wishes to aid in any constructive way,
16 particularly by endeavoring to appraise accurately
17 for the President and the Secretary of State the Japan-
18 ese factors and conditions having direct or indirect
19 bearing on the subject and also by trying to bring the
20 Japanese Government to adopt measures and policies such
21 as the United States Government deems to be essential
22 for a mutual understanding or agreement between Japan
23 and the United States. Since the fall of Admiral
24 YONAI's Cabinet in July of 1940, American diplomacy
25 in Japan has been in eclipse temporarily through force

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20 Japanese Government to adopt measures and policies such
21 as the United States Government deems to be essential
22 for a mutual understanding or agreement between Japan
23 and the United States. Since the fall of Admiral
24 YONAI's Cabinet in July of 1940, American diplomacy
25 in Japan has been in eclipse temporarily through force

1 of circumstances. However, when the KONOYE-TOYODA
2 regime began last July, American diplomacy obtained
3 a very active new lease of life. The Ambassador ex-
4 presses his earnest hope therefore that so propitious
5 a period be not permitted to slip by without a new
6 foundation having been laid with enough stability to
7 warrant a reasonable amount of confidence that the
8 structure to be erected gradually and progressively
9 thereon can and will endure.

10 "The Ambassador recalls his statements in
11 the past that in Japan the pendulum always swings between
12 moderate and extremist policies; that it was not then
13 possible under the existing circumstances for any
14 Japanese leader or group to reverse the program of
15 expansion and expect to survive; that the permanent
16 digging in by Japanese in China and the pushing of the
17 Japanese advance to the south could be prevented only
18 by insuperable obstacles. The Ambassador recalls like-
19 wise his views that the risks of taking positive
20 measures to maintain United States security in the
21 future were likely to be far smaller than the risks
22 of not taking such measures; that only respect for
23 potential power of the United States has deterred
24 Japan from sending more liberties with American in-
25 terests; and that Japan's program of forcible expansion

1 could be brought to a halt only by a show of force
2 and by a demonstration of American willingness to use
3 this force if necessary. The Ambassador recalls also
4 his statement that if Japan's leadership could be dis-
5 credited eventually by such American action, there
6 might take shape in Japan ultimately a regeneration
7 of thought which would allow Japan to resume formal
8 relations with the United States, leading to a read-
9 justment of the entire problem of the Pacific.

10 "The Ambassador suggests that the United
11 States has been following very wisely precisely this
12 policy which, furthered by other developments in the
13 world, has helped to discredit Japanese leadership,
14 notably that of former Foreign Minister MATSUOKA.
15 The Ambassador cites as work developments arousing
16 a positive reaction from the United States the con-
17 clusion by Japan of the Tripartite Alliance and
18 Japan's recognition of the Wang Ching-wei regime at
19 Nanking, which preceded Germany's attack on the
20 Soviet Union. Germany's action upset the basis for
21 the Tripartite Pact, Japan having joined the Italo-
22 German Axis in order to obtain security against Russia
23 and thereby to avoid the peril of being caught between
24 the Soviet Union and the United States. At the
25 present time Japan is attempting to correct this

1 miscalculation by getting out of an extremely dangerous
2 position. The Ambassador recalls his reports to the
3 Department to the effect that Japanese foreign policies
4 are inevitably changed by the impact of events abroad
5 and that liberal elements in Japan might come to the
6 top in due course as a result of the trend of events.
7 He considers that such a time has arrived. He sees a
8 good chance of Japan's falling into line if a program
9 can be followed of world reconstruction as forecast by
10 the declaration of President Roosevelt and Prime Minister
11 Churchill. American policy -- of forbearance, patient
12 argumentation, efforts at persuasion, followed for
13 many years, plus a manifest determination of the United
14 States to take positive measures when called for --
15 plus the impact of world developments upon Japan, has
16 rendered Japan's political soil hospitable to the
17 sowing of new seeds which, the Ambassador feels, if
18 planted carefully and nourished, may bring about the
19 anticipated regeneration of Japanese thought and a
20 complete readjustment of relations between Japan and
21 the United States.
22

23 "Certain quarters have advanced the thought --
24 and no doubt it is prominently in the mind of the
25 United States Government -- that at this juncture an
agreement between Japan and the United States will serve

merely as a breathing spell to Japan. During such a breathing spell, Japan, having successfully untangled itself with American aid from the China conflict, will recoup and strengthen its forces in order to resume at the next favorable opportunity its expansionist program. This thought cannot be gainsaid with certainty. The same school of thought also holds that Japan will be forced to relinquish its expansionist program because of the deterioration of Japanese domestic economy and because of the threat of financial, economic, and social collapse due to a progressive intensifying of economic measures by the United States, Great Britain, and the Netherlands against Japan. The Ambassador adds that should this thesis be accepted as reasonably sound, the position will confront the United States of choosing one of two methods to approach its objective, namely, either the method of progressive economic strangulation or the method of constructive conciliation, not so-called appeasement.

"The Ambassador sees the second method as the definite choice of the United States Government following the beginning of the Washington preliminary conversations and President Roosevelt's acceptance in principle of the Japanese Prime Minister's proposed meeting. Indeed, the Ambassador remarks, the United

1 States has never departed from its readiness to
2 negotiate on any issues with Japan despite the fact
3 that Japan already had embarked at that time on its
4 expansion-by-force program. He feels that, from the
5 viewpoint of far-seeing statesmanship, the wisdom of
6 the American choice seems to be beyond cavil. Should
7 failure greet the constructive, conciliatory method
8 of approach now or later, there will always be
9 available the other method, the application of
10 progressive economic sanctions. In the opinion of
11 the Ambassador, whether the trend of American relations
12 with Japan is for better or for worse, the United
13 States obviously will have to remain for a long time
14 to come in a state of preparedness. The thought that
15 eventual British victory in the world war will solve
16 automatically many problems may, meanwhile, afford
17 whatever degree of encouragement is justified."

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1 "The Ambassador, while admitting that risks
2 will inevitably be involved no matter what course is
3 pursued toward Japan, offers his carefully studied
4 belief that there would be substantial hope at the
5 very least of preventing the Far Eastern situation
6 from becoming worse and perhaps of ensuring definitely
7 constructive results, if an agreement along the lines
8 of the preliminary discussions were brought to a head
9 by the proposed meeting of the heads of two governments.

10 The Ambassador mentions his previous expressions of
11 opinion that the principal point at issue between the
12 United States and Japan is not whether the former must
13 call a halt to the expansionist program of the latter,
14 but when. He raises the questions whether the United
15 States is not now given the opportunity to halt Japan's
16 program without war, or an immediate risk of war, and
17 further whether, through failure to use the present op-
18 portunity, the United States will not face a greatly
19 increased risk of war. The Ambassador states his **firm**
20 belief in an affirmative answer to these two questions.

22 "Certain quarters hold the view that it is
23 altogether improbable under the existing circumstances
24 that counter-action will be deliberately taken by
25 Japan in response to any American action likely to be
taken in the Pacific which would bring about war with

1 the United States. The Ambassador states his inability
2 to agree that war may not supervene following actions,
3 whether irrational or deliberate, by elements either
4 in Japan or in the United States tending so to inflame
5 public opinion in the other country concerned as to
6 make war unavoidable. He recalls in this regard the
7 cases of the Maine and the Panay.

8 "The Ambassador stresses the importance of
9 understanding Japanese psychology, fundamentally
10 unlike that of any Western nation. Japanese reactions
11 to any particular set of circumstances cannot be
12 measured, nor can Japanese actions be predicted by
13 any Western measuring rod. This fact is hardly sur-
14 prising in the case of a country so recently feudalistic.
15 The Ambassador conceives his chief duty to be an attempt
16 to interpret accurately Japanese psychology, and he
17 states that he has aimed to do this in his numerous
18 reports during the last several months and years to the
19 Department. Keeping this thought constantly before
20 him, the Ambassador ventures at the risk of repetition
21 to advance the considerations set forth below.
22

23 "Should the United States expect or await
24 agreement by the Japanese Government, in the present
25 preliminary conversations, to clear-cut commitments which
will satisfy the United States Government both as to

1 principle and as to concrete detail, almost certainly
2 the conversations will drag along indefinitely and
3 unproductively until the KONOYE cabinet and its sup-
4 porting elements desiring rapprochement with the
5 United States will come to the conclusion that the
6 outlook for an agreement is hopeless and that the
7 United States Government is only playing for time. If
8 the abnormal sensitiveness of Japan and the abnormal
9 effects of loss of face are considered, in such a
10 situation Japanese reaction may and probably will be
11 serious. This will result in the KONOYE Government's
12 being discredited and in a revulsion to anti-American
13 feeling, and this may and probably will lead to
14 unbridled acts. The eventual cost of these will not be
15 reckoned, and their nature is likely to inflame
16 Americans, while reprisal and counter-reprisal measures
17 will bring about a situation in which it will be
18 difficult to avoid war. The logical outcome of this
19 will be the downfall of the KONOYE cabinet and the
20 formation of a military dictatorship which will lack
21 either the disposition or the temperament to avoid
22 colliding head on with the United States. There is a
23 question that such a situation may prove to be more
24 serious even than the failure to produce an entirely
25 satisfactory agreement through the proposed meeting

1 between President Roosevelt and Prince KONOYE, should
2 it take place as planned. Worded otherwise, the
3 question remains whether it will not prove to be a
4 less serious case for the negotiations undertaken in
5 good faith to fail of complete success than for the
6 United States to demonstrate its unwillingness to
7 enter any such negotiations.

8 "The Ambassador continues by stating that he
9 has been emphatically told on numerous occasions --
10 and such declarations he considers must be accepted at
11 their face value -- that prior to the proposed
12 Roosevelt-KONOYE meeting and formal negotiations it
13 is impossible for the Japanese Government to define
14 its future assurances and commitments more specifically
15 than hitherto stated. The Ambassador explains that
16 one reason for this Japanese position, as given him
17 very confidentially, is that former Foreign Minister
18 MATSUOKA, after his retirement in July, recounted in
19 complete detail to the German Ambassador in Japan the
20 course of the Washington conversations up to that
21 time. Because many supporters of MATSUOKA remain in
22 the Tokyo Foreign Office, the fear has been expressed
23 that these men will not scruple to reveal to both the
24 Germans and the Japanese extremists any information
25 which would render the present cabinet's position

untenable.

1 "Although certain basic principles have been
2 accepted provisionally by the Japanese Government, the
3 definitions and formulae of Japan's future objectives
4 and policy, as advanced so far during the preliminary
5 conversations, and the statements supplementary to
6 those definitions, are so abstract or equivocal and are
7 open to such wide interpretation that they rather
8 create confusion than clarify commitments which the
9 Japanese Government is ready to undertake. The
10 Ambassador states that at the same time he has been
11 told that Prince KONOYE is in a position in direct
12 negotiations with President Roosevelt to offer him
13 assurances which, because of their far-reaching
14 character, will not fail to satisfy the United States.
15 The truth of this statement cannot be determined by
16 the Ambassador, who, however, points out that, in
17 regard specifically to Japan's Axis relations, the
18 Japanese Government, though refusing consistently to
19 give an undertaking that it will overtly renounce its
20 alliance membership, actually has shown a readiness to
21 reduce Japan's alliance adherence to a dead letter by
22 its indication of willingness to enter formally into
23 negotiations with the United States. The Ambassador
24 therefore does not consider unlikely the possibility

1 of Prince KONOYE's being in a position to give President
2 Roosevelt directly a more explicit and satisfactory
3 engagement than has already been vouchsafed in the
4 course of the preliminary conversations.

5 "In the opinion of the Ambassador, on the
6 basis of the above observations which he has every
7 reason to regard as sound, American objectives will
8 not be reached by insisting or continuing to insist
9 during the preliminary conversations that Japan pro-
10 vide the sort of clear-cut, specific commitments which
11 appear in any final, formal convention or treaty.
12 Unless a reasonable amount of confidence is placed by
13 the United States in the professed sincerity of
14 intention and good faith of Prince KONOYE and his
15 supporters to mold Japan's future policy upon the basic
16 principles they are ready to accept and then to adopt
17 measures which gradually but loyally implement those
18 principles, with it understood that the United States
19 will implement its own commitments pari passu with
20 the steps which Japan takes, the Ambassador does not
21 believe that a new orientation can be successfully
22 created in Japan to lead to a general improving of
23 Japanese-American relations and to the hope that
24 ultimate war may be avoided in the Pacific. The sole
25 way to discredit the Japanese military machine and

1 army is through wholesale military defeat, and the
2 Ambassador sees no present prospect of this. The
3 only alternative (and the only wise one in the view of
4 the Ambassador) is an attempt to produce a regeneration
5 of Japanese thought and outlook through constructive
6 conciliation, along the lines of American efforts at
7 present. The Ambassador inquires whether the better
8 part of wisdom and of statesmanship is not to bring
9 such efforts to a head before the force of their initial
10 impetus is lost, leaving it impossible to overcome an
11 opposition which the Ambassador thinks will mount
12 inevitably aeadily in Japan.

13 "In submitting the foregoing discussion, the
14 Ambassador does so in all deference to the much
15 broader field of view of President Roosevelt and
16 Secretary Hull and in full awareness that the Ambassa-
17 dor's approach to the matter is limited to the view-
18 point of the American Embassy in Japan."

19 We offer in evidence defense document
20 206-E-(114), an excerpt from the diary of former
21 Ambassador Grew, entitled "Ten Years in Japan."
22 This is a substance of a paraphrase of an original
23 text prepared by the Department of State, November 3,
24 1941.

25 THE PRESIDENT: Mr. Comyns Carr.

1 MR. COMYNS CARR: May it please the Tri-
2 bunal, this document is subject to exactly the same
3 objection as the last. The last objection was over-
4 ruled on my friend's assurance that facts of impor-
5 tance and relevance would be found in the document.
6 If the Tribunal was satisfied, on hearing it read, that
7 that was so, I won't press an objection to this one.
8 If, on the other hand, the Tribunal was disappointed
9 with the last one, I would submit that this one should
10 be rejected.

11 THE PRESIDENT: Well, you can't distinguish
12 between the two, Mr. Carn

13 MR. LOGAN: I wish to correct an error, if
14 the Tribunal please. I did not say that the last
15 document contained all facts. I frankly admitted it
16 did contain opinion. There are other grounds upon
17 which I urged its admission.

18 MR. COMYNS CARR: I did not accuse my friend
19 of saying it contained all facts, but he said it
20 contained some of importance. I found it difficult to
21 discover them.

22 MR. LOGAN: It stands in the same category
23 as the last document, your Honor. It is a paraphrase
24 from the original text prepared by the Department of
25 State.

1 THE PRESIDENT: The last document, of course,
2 is just a long argument. I think there is a majority
3 against this, Mr. Logan. By a majority, the objection
4 is upheld and the document rejected.

5 MR. LOGAN: Defense document 401-B-10 is
6 offered in evidence. This is an excerpt from "Peace
7 and War" with reference to Ambassador Grew's report
8 to the Department of State on the current situation in
9 Japan on November 3, 1941.

10 THE PRESIDENT: Mr. Comyns Carr.

11 MR. COMYNS CARR: May it please the Tribunal,
12 this one is much shorter and consists in my submission
13 entirely of Mr. Grew's opinion.

14 MR. LOGAN: It also states facts, if the
15 Tribunal please, with respect to the effect of the
16 embargoes.

17 THE PRESIDENT: By a majority, the Court
18 upholds the objection and rejects the document.

19 We will adjourn, now, until half-past nine
20 on Monday morning.

21 (Whereupon, at 1600, an adjournment
22 was taken until Monday, 11 August 1947, at
23 0930.)

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